







A C T S
AND
R E S O L V E S

PASSED BY THE

General Court of Massachusetts,

IN THE YEARS

1856-7:

TOGETHER WITH THE MESSAGES,

ETC., ETC., ETC.

PUBLISHED BY THE
SECRETARY OF THE COMMONWEALTH.



BOSTON:
WILLIAM WHITE, PRINTER TO THE STATE.
1857.

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1856.

The General Court of 1856 assembled in the State House in Boston, on Wednesday, the second day of January, and was prorogued on Friday, the sixth day of June.

The oaths of office were administered to His Excellency, HENRY J. GARDNER, on the third day of January.

GENERAL STATUTES

AND

SPECIAL ACTS

OF

MASSACHUSETTS,

1856.

AN ACT establishing a Probate Court in North Andover, in the County of Essex. *Chap. 1.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The probate court now required to be holden in Andover, in the county of Essex, on the second Tuesday in February in each year, shall hereafter be holden in North Andover in said county, and the act requiring a court of probate to be holden in North Andover, on the third Tuesday in January annually, is hereby repealed.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, January 12, 1856.*]

AN ACT continuing the Tremont Insurance Company.

Chap. 2.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Tremont Insurance Company in the city of Boston, is hereby continued a body corporate for the purpose of closing its affairs, till the first day of July which will be in the year of our Lord eighteen hundred and fifty-seven.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, January 26, 1856.*]

Chap. 3. AN ACT to change the Name of the Cochituate Fire Insurance Company, of Boston.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Name changed.

SECT. 1. The Cochituate Fire Insurance Company, of Boston, shall hereafter be called and known by the name of the City Fire Insurance Company.

When to take effect.

SECT. 2. This act shall take effect from and after its acceptance by the stockholders in said company: *provided*, the meeting for that purpose be held within three months from the passage of this act. [*Approved by the Governor, January 31, 1856.*]

Chap. 4. AN ACT in addition to an Act to establish a Police Court in the Town of Pittsfield.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Special justices to act in case of vacancy.

SECT. 1. Whenever it shall happen that the office of standing justice of the police court in Pittsfield, established by the three hundred and tenth chapter of the acts of the year eighteen hundred and fifty, shall become vacant, the special justices of said court, or either of them, shall have power while such vacancy exists, to act in the same manner as they are now authorized to act under the provisions of the ninth section of said act establishing said court; and such special justices or justice, for services rendered under the provisions of this act, shall be paid in the same manner that the standing justice would have been paid, and such sums as said standing justice would have been entitled to receive for the like services.

Compensation.

To apply to existing vacancy.

SECT. 2. The provisions of this act shall apply to any now existing vacancy in the office of standing justice of said court.

Inconsistent acts repealed.

SECT. 3. Any thing in the provisions of the act to which this act is in addition, inconsistent with the provisions of this act, is hereby repealed.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, January 31, 1856.*]

AN ACT to incorporate the Salem Marine Insurance Company.

Chap. 5.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. John Bertram, William D. Pickman and Edward D. Kimball, their associates and successors, are hereby made a corporation for the term of twenty years from the passage of this act, by the name of the Salem Marine Insurance Company, to be established in the city of Salem, for the purpose of making insurance against maritime losses : with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and in the four hundred and fifty-third chapter of the acts passed in the year eighteen hundred and fifty-four, and all other general laws which now are or hereafter may be in force relative to marine insurance companies.

Corporators.
Term.
Name.
Purpose.
Privileges, restrictions, &c.

SECT. 2. The said corporation shall have a capital of one hundred thousand dollars, divided into shares of one hundred dollars each, and may hold real estate for its own use, not exceeding in value ten thousand dollars.

Capital \$100,000.
Shares \$100 each.
Real estate, \$10,000.

SECT. 3. The said corporation may commence business when seventy-five thousand dollars of its capital stock shall be paid in.

When to commence business.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, February 6, 1856.*]

AN ACT to change the Name of the American Lead Works.

Chap. 6.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The corporate name of the American Lead Works, in the city of Boston and town of Chelsea, in the county of Suffolk, shall be changed, and the said corporation shall be known and called by the name of the Boston Faucet Company.

Name changed.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, February 6, 1856.*]

Chap. 7.

AN ACT to incorporate the Universalist Sabbath School Union.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

SECT. 1. John D. W. Joy, Thomas A. Goddard, Nathan K. Noble, Henry B. Metcalf and Henry Blanchard, their associates and successors, are hereby incorporated and made a body politic by the name of the Universalist Sabbath School Union, for the purpose of promoting the Sabbath school cause, and shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Name.

Purpose.

Privileges, restrictions, &c.

Real and personal estate not to exceed \$50,000.

SECT. 2. The said corporation may take and hold real and personal estate to an amount not exceeding fifty thousand dollars, for the aforesaid purposes. [*Approved by the Governor, February 6, 1856.*]

Chap. 8.

AN ACT authorizing an increase of the Capital Stock of the Lawrence Gas Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Capital increased \$100,000.

How invested.

No shares issued under par.

SECT. 1. The Lawrence Gas Company are hereby authorized to increase their capital stock, by adding thereto one hundred thousand dollars, and to invest such portion thereof in real and personal estate, as may be necessary and convenient for carrying on the business for which said company was incorporated.

SECT. 2. No stock, issued under this act, shall be issued for a less sum than the par value of the original shares.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, February 6, 1856.*]

Chap. 9.

AN ACT to incorporate the Home Mutual Fire Insurance Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

Name.

Term.

Purpose.

Privileges, restrictions, &c.

SECT. 1. William B. Calhoun, William Rice, George W. Rice, their associates and successors, are hereby made a corporation by the name of the Home Mutual Fire Insurance Company, to be established in the city of Springfield, for the term of twenty-eight years, for the purpose of insuring dwelling-houses and other buildings, and personal property, against loss or damage by fire; with all the powers and privileges, and subject to all the duties, liabilities and

restrictions, set forth in the four hundred and fifty-third chapter of the general laws of the Commonwealth of Massachusetts, passed April twenty-ninth, eighteen hundred and fifty-four, and all other laws of this Commonwealth applicable to mutual fire insurance companies.

SECT. 2. This act shall take effect whenever the Hampden Fire Insurance Company shall, by a vote of a majority of the members thereof, abolish the mutual department of said company, in accordance with an act passed March thirty-first, eighteen hundred and fifty-five, and shall have deposited a certified copy of said vote in the office of the Secretary of this Commonwealth. [*Approved by the Governor, February 9, 1856.*]

When to take effect.

AN ACT to establish the Salaries of the Justices of the Supreme Judicial Court. *Chap. 10.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. From and after the first day of January, of the year one thousand eight hundred and fifty-six, the chief justice of the supreme judicial court shall receive an annual salary of forty-five hundred dollars; and each of the associate justices of said court shall receive an annual salary of four thousand dollars; and the said salaries shall be paid in quarterly payments out of the treasury of the Commonwealth, and in the same proportion for any part of a quarter.

Salaries established

SECT. 2. All acts and parts of acts inconsistent herewith, are hereby repealed. [*Approved by the Governor, February 9, 1856.*]

Inconsistent acts repealed.

AN ACT to change the Name of the South Congregational Society, of Woburn, and authorize it to hold Property. *Chap. 11.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The South Congregational Society of Woburn, shall hereafter be called and known by the name of the First Congregational Society of Winchester, and all debts due to or from said South Congregational Society of Woburn, may be sued for and collected, in the same manner as if this act had not been passed.

Name changed.

SECT. 2. Said society may hold real and personal estate, or either, to an amount not exceeding fifty thousand dol-

Real and personal estate not to exceed \$50,000.

Proviso. lars: *provided*, the income thereof shall be applied to parochial purposes, except so much of said income as may be needed to pay the principal and interest of any sums of money which may be hired on mortgage of the real estate of said society, or otherwise.

Acts confirmed and made valid. SECT. 3. All acts and things done by the said South Congregational Society of Woburn, under the name of the Winchester Congregational Society, which would have been valid and legal, if done in their rightful corporate name, are hereby confirmed and made valid.

Acceptance of act. SECT. 4. The meeting of said society for the purpose of acting upon the acceptance of this act shall be called agreeably to the provisions of the twentieth chapter of the Revised Statutes.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, February 9, 1856.*]

Chap. 12. AN ACT to continue in force an Act to incorporate the Haverhill Mutual Fire Insurance Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Act extended. The statute of the year of our Lord one thousand eight hundred and thirty-one, chapter fifty, incorporating the Haverhill Mutual Fire Insurance Company, passed February nineteenth, eighteen hundred and thirty-one, shall be continued and remain in full force for the term of twenty years from and after the nineteenth day of February eighteen hundred and fifty-nine: *provided*, that said company shall be subject to all the duties, liabilities and obligations, and entitled to all the privileges set forth in the forty-fourth chapter of the Revised Statutes, the four hundred and fifty-third chapter of the statutes of eighteen hundred and fifty-four, and all other general laws which may be hereafter enacted relating to mutual fire insurance companies. [*Approved by the Governor, February 9, 1856.*]

Duration.

Powers, duties, &c.

Chap. 13. AN ACT in addition to an Act to establish a Police Court in the Town of Chicopee.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Justice may retain fees, &c. SECT. 1. The justice of said court shall be allowed to retain to his own use, for his services in criminal prosecutions, all fees by him received for said services: *provided*,

Proviso.

that he shall not retain for said services a sum exceeding six hundred dollars annually, and all fees received by him over and above that sum for services in criminal prosecutions, he shall pay over to the county treasurer.

SECT. 2. That portion of section fifth, chapter four hundred and sixty-three of statutes of eighteen hundred and fifty-five, which is inconsistent with the first section of this act, is hereby repealed. Part of act repealed.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, February 13, 1856.*]

AN ACT to Protect the Fisheries in Ipswich River.

Chap. 14.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The inhabitants of the town of Ipswich, in Essex county, may, at any time between the first day of April and the first day of June, (Sundays excepted,) take alewives from Ipswich River in said town, with dip nets, and at no other time. Fishing with dip nets limited.

SECT. 2. No person shall, between the first day of April and the first day of June, set, draw or stretch any seine or drag net, in any of the waters in Ipswich River, within the limits of said town. Seine fishing prohibited.

SECT. 3. Any person who shall offend against the provisions of either of the foregoing sections of this act, shall, for each and every offence, forfeit the sum of one hundred and fifty dollars, one-half thereof to the use of the complainant, and the other half to the use of the town. Forfeit for violating, &c.

SECT. 4. All acts and parts of acts inconsistent with this act, are hereby repealed. Inconsistent acts repealed.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, February 13, 1856.*]

AN ACT to extend the time for constructing a Highway across Mystic River. Chap. 15.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The time in which the county commissioners for the county of Middlesex, may construct a road and bridge across Mystic River in the town of Medford, according to an act passed April twelfth, in the year of our Lord one thousand eight hundred and fifty-four, authorizing and empowering them so to do, is hereby extended two years from Time for constructing road extended

the twelfth day of April, in the year of our Lord, one thousand eight hundred and fifty-six.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, February 13, 1856.*]

Chap. 16.

AN ACT to incorporate Simpson's Patent Dry Dock Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

SECT. 1. James E. Simpson, Charles J. Morrill, George Callender, their associates and successors, are hereby made a corporation by the name of Simpson's Patent Dry Dock Company; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, contained in the forty-fourth chapter of the Revised Statutes.

Privileges, restrictions, &c.

May purchase lands, docks, flats, &c.

SECT. 2. Said company shall have power to purchase and hold, in fee simple or otherwise, all, or any part of the tract of land, wharves, dry docks, or flats, known as Simpson's Dry Docks, and situated on Marginal Street, in that part of Boston called East Boston, and now owned by said James E. Simpson, Morrill, Callender, and others, and portions of which were conveyed by said Simpson to said Morrill, Callender and others, by deeds dated on the tenth day of December last past, with all the privileges and appurtenances to said premises belonging, and with all the property and machinery thereon: and the said company may also purchase and hold, in fee simple or otherwise, any other lands, wharves, docks, or flats, in that part of Boston called East Boston, for the purpose of erecting thereon dry docks, on the plan of said Simpson's Dry Docks at East Boston: *provided*, the whole amount of real estate held by said company shall not exceed two hundred and fifty thousand dollars. And the said company, within the limits of, or upon said lands at East Boston, or upon any and all lands that

Proviso.

May construct wharves, docks, &c.

may be purchased and held by them as aforesaid, may construct wharves and dry docks, or other docks, and own, manage, control, use and carry on the same as they may deem proper, and lay vessels within, and at the ends and sides thereof, and receive dockage and wharfage therefor: erect any buildings, lay out streets and passage ways, and improve and manage said property as to them shall seem expedient: *provided*, that nothing herein contained shall authorize said company to infringe upon the legal rights of any person, or to build any wharf or other structure on the premises which is not now authorized by law.

Proviso

SECT. 3. Said company may, at any legal meeting, from time to time, agree upon and fix the number of shares, not exceeding four thousand in all, into which their stock shall be divided, which shares shall be transferable in a book, to be kept by the clerk of the company for that purpose; may, from time to time, assess upon the stockholders such sums of money, not exceeding one hundred dollars on each share, as may be necessary for the purchase, improvement, management, and carrying on of their estate and property; and may, in case any stockholder shall neglect to pay any such assessment, cause such of the shares of such stockholder as may be sufficient therefor, to be sold, in such manner as said company may, by their by-laws, determine.

Number of shares not to exceed four thousand.

Shares not to be assessed over \$100 each.

May be sold for non-payment

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, February 15, 1856.*]

AN ACT to authorize the Beaman Manufacturing Company to increase their capital stock. *Chap. 17.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Beaman Manufacturing Company are hereby authorized to increase their capital stock by an amount not exceeding fifty thousand dollars, and to invest such increase in real and personal estate necessary and convenient for carrying on the business of the company: *provided*, that no shares in the capital stock hereby authorized, shall be issued for a less sum, to be actually paid in on each, than the par value of the shares in the original capital stock of said corporation.

Capital increased \$50,000.

How invested

Proviso.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, February 15, 1856.*]

AN ACT requiring a new promise of an Insolvent Debtor after his discharge, to be in writing. *Chap. 18.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. No promise for the payment of any debt made by an insolvent debtor, who has obtained his discharge from said debt under proceedings in bankruptcy or insolvency, shall be evidence of a new or continuing contract, whereby to deprive any party of the benefit of relying upon his discharge in bar of the recovery of a judgment upon said debt, unless such promise be made by, or contained in, some writing signed by the party sought to be charged.

New promise of payment to be in writing.

Act to have no effect on pending actions, &c.

SECT. 2. This act shall have no effect upon any action now pending, or upon promises made by an insolvent debtor before this act goes into operation. [*Approved by the Governor, February 15, 1856.*]

Chap. 19. AN ACT to continue in force an Act to incorporate the Lynn Mutual Fire Insurance Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Act extended.

SECT. 1. The act to incorporate the Lynn Mutual Fire Insurance Company, passed February the twentieth, in the year one thousand eight hundred and twenty-eight, shall be and remain in force for the term of twenty years from the twentieth day of February, in the year one thousand eight hundred and fifty-six ; and the said corporation shall be continued through that term ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-seventh and forty-fourth chapters of the Revised Statutes, the four hundred and fifty-third chapter of the statutes of eighteen hundred and fifty-four, and all other statutes which have been, or may hereafter be passed relating to mutual fire insurance companies.

Duration.

Privileges, restrictions, &c.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, February 16, 1856.*]

Chap. 20. AN ACT to extend the time for the construction of the Millbury and Southbridge Railroad.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Time for construction extended.

The time within which the Millbury and Southbridge Railroad Company may construct the unfinished portions of their railroad, is hereby extended one year from the time now prescribed by law. [*Approved by the Governor, February 16, 1856.*]

Chap. 21. AN ACT concerning the Perkins Mills and Dwight Manufacturing Company, and to increase the Capital Stock of the latter.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Dwight Manufacturing Company to issue 1,000 additional shares,

SECT. 1. The stockholders of the Dwight Manufacturing Company, in the town of Chicopee, and county of Hampden, are hereby authorized to create one thousand addi-

tional shares of capital stock of one thousand dollars each, ^{\$1,000 each, to} which shares shall be issued to the several stockholders of ^{stockholders of} the Perkins Mills in said Chicopee, in proportion to the number of shares held by each in said Perkins Mills: *pro-* ^{Proviso.} *vided*, that at a legal meeting called for the purpose, the said Perkins Mills shall, by a vote representing two-thirds of the whole number of shares as owned by the stockholders thereof at the time being,—that is to say, by a vote of six hundred and sixty-seven shares,—accept this act, and agree to sell, transfer and assign, their entire property and estate, real, personal or mixed, in whatsoever form or manner existing, together with all their existing rights, privileges and immunities, to the said Dwight Manufacturing Company, as the equivalent of the said one thousand additional shares created by this act, and shall authorize and empower their directors, or a majority of them, to prepare, sign, and execute, acknowledge and deliver, in the name of the said Perkins Mills, any and all deeds of conveyance, or instruments in writing, necessary to fully effectuate such sale and transfer accordingly. ^{Directors to execute deed of conveyance, &c.}

SECT. 2. When such sale and transfer shall have been completed, the charter of the Perkins Mills shall be thereupon cancelled and annulled: *provided*, that for all the purposes connected with the settlement of the affairs of the Perkins Mills, this annulment shall not affect the claims, rights or demands, of said corporation, in law or in equity; but the same shall survive and inure to the benefit and behoof of the Dwight Manufacturing Company: and *pro-* ^{Perkins Mills charter annulled.} *vided, also*, it shall not affect the claims, rights or demands of any creditors of the Perkins Mills, in law or in equity; but that all such claims, rights and demands, shall survive; and in consideration of the said sale and transfer, the said Dwight Manufacturing Company shall be held answerable and liable therefor. ^{Proviso.} ^{Provided, also.}

SECT. 3. This act shall take effect from its passage, but shall be null and void, unless accepted by the said corporations, respectively, within six months thereafter, which acceptances shall be binding on both corporations for the due fulfilment of all the stipulations and provisions of this act. [*Approved by the Governor, February 16, 1856.*] ^{Act null and void unless accepted, &c.}

Chap. 22. AN ACT in further addition to an Act establishing the City of Salem.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Election of city and ward officers.

SECT. 1. The acceptance by the legal voters of the city of Salem, of an act entitled, "An Act in addition to an Act establishing the city of Salem," approved by the governor, on the third day of May, in the year one thousand eight hundred and fifty-five, shall not prevent the holding of elections for the choice of city and ward officers in and for said city of Salem, on the Tuesday next preceding the second Monday of March, in the present year, nor the organization of the government of said city of Salem on the fourth Monday of March, in the present year, in the manner now provided by law.

Organization of city government.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, February 21, 1856.*]

Chap. 23. AN ACT to change the corporate name of the Second Baptist Society in Salem, and also the time of their Annual Meeting.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Name changed.

SECT. 1. The corporate name of the Second Baptist Society in Salem, is hereby changed ; and said society shall hereafter be called and known by the name of the Central Baptist Society in Salem.

Annual meeting, when held.

SECT. 2. The annual meeting of said society may be holden on any day in March, Sundays excepted, instead of the first Monday in January, as required by their act of incorporation, passed February fifteenth, eighteen hundred and twenty-six.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, February 21, 1856.*]

Chap. 24. AN ACT respecting the Custody of Minor Children whose Parents are living separate.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Justices S. J. C. on petition, &c., may decree concerning minor children.

In all cases where the parents of any minor children are living separate, the justices of the supreme judicial court, on the petition of either parent, shall have the same power to make such decrees concerning their care, custody, education and maintenance, as they now have in cases of children whose parents are divorced. [*Approved by the Governor, February, 21, 1856.*]

AN ACT to incorporate the Nantucket Agricultural Society.

Chap. 25.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. E. W. Gardner, Josiah Gorham, William M. Bates, their associates and successors, are hereby made a corporation by the name of the Nantucket Agricultural Society, for the encouragement of agriculture and the mechanic arts, in the county of Nantucket, by premiums and other means ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions of other agricultural societies established in this Commonwealth.

Corporators.

Purpose.

Privileges, restrictions, &c.

SECT. 2. Said society shall be entitled, on the same terms as other incorporated agricultural societies, to receive annually, from the treasury of the Commonwealth, two hundred dollars, under the provisions of chapter forty-two of the Revised Statutes, notwithstanding the restrictions of section second of that chapter. [*Approved by the Governor, February 21, 1856.*]

Receive \$200 annually from Commonwealth.

AN ACT concerning the Boston and New York Central Railroad Company.

Chap. 26.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Any person or persons having such claim for land damages against the Boston and New York Central Railroad Company, as does or may hereafter entitle him or them, at common law or by the statutes of this Commonwealth, or in any other way, to any injunction or process in law or equity, are hereby authorized to agree in writing with said company, upon such terms and conditions as shall be expressed in his or their agreement or agreements, not to avail himself or themselves of any or either, or all of said remedies, before the first day of May, in the year eighteen hundred and fifty-nine ; and neither such agreement or agreements, nor any delay to apply for any of said processes, in pursuance of the terms and conditions of such agreement or agreements, shall be deemed a waiver of his or their right to enforce any, either or all of said remedies after the expiration of the said time, or upon the breach, by the said company, of the terms or conditions, or any of them, of the said agreement or agreements ; but the same may then, in either such case, be enforced as fully as if said agreement or agreements had never been made.

Claimants for land damages may agree not to avail. &c.

Agreement not to be deemed a waiver of right to enforce. &c.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, February 26, 1856.*]

Chap. 27. AN ACT relating to the appointment of Trustees of the State Lunatic Hospitals.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Parts of acts repealed.

So much of the first section of the forty-eighth chapter of the Revised Statutes, and of the first section of chapter three hundred and eighteen of the acts of eighteen hundred and fifty-three, as relates to the appointing for a succeeding year of the first named in the commission of trustees of the Lunatic Hospitals of Worcester and Taunton, is hereby repealed. [Approved by the Governor, February 26, 1856.]

Chap. 28. AN ACT to extend the time for Constructing the Western Avenue Railroad.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Time for construction extended two years.

The time allowed to the Western Avenue Railroad Company to construct its Railroad, is hereby extended two years beyond the time now prescribed by law. [Approved by the Governor, February 26, 1856.]

Chap. 29. AN ACT to extend the time for the construction of the Barre and North Brookfield Railroad.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Time for construction extended two years.

The time within which the Barre and North Brookfield Railroad Company may construct its railroad, is hereby extended two years from the time now fixed by law. [Approved by the Governor, February 26, 1856.]

Chap. 30. AN ACT to incorporate the Blackstone Athenæum.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECT. 1. Henry C. Kimball, Estes Lamb, James B. Hall, Paul P. Todd and Alexander Ballou, their associates and successors, are hereby made a corporation by the name of the Blackstone Athenæum, to be established in the town of Blackstone, in the county of Worcester, for the purpose of instituting and maintaining a library and reading-room, advancing useful arts and sciences, and promoting public instruction, by lectures or otherwise; with all the powers

and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. Said corporation may hold real and personal estate, to an amount not exceeding in all the sum of twenty-five thousand dollars, the income of which shall be devoted to the aforesaid purposes. [*Approved by the Governor, February 26, 1856.*]

Real and personal estate not to exceed \$25,000.
Income, how devoted.

AN ACT to incorporate the Clinton Steam-Power Company.

Chap. 31.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Joseph B. Parker, Sidney Harris, Franklin Forbes, their associates and successors, are hereby made a corporation by the name of the Clinton Steam-Power Company; for the purpose of supplying mechanics and manufacturers with rooms and steam-power in the town of Clinton, in the county of Worcester: and for this purpose shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, the one hundred and thirty-third chapter of the acts of the year eighteen hundred and fifty-one, and all other general statutes which have been or may be passed, relating to like corporations.

Corporators.
Name.
Purpose.
Privileges, restrictions, &c.

SECT. 2. The said corporation may hold, for the purposes aforesaid, real estate to the amount of fifty thousand dollars, and the whole capital stock shall not exceed seventy-five thousand dollars: *provided*, that no shares in said capital stock shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued; and *provided, also*, that no shares in said capital stock shall be assessed beyond such par value.

Real estate, \$50,000.
Capital stock, \$75,000.
Proviso.
Provided, also.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, February 26, 1856.*]

AN ACT to change the corporate name of the Plympton Branch Railroad Company.

Chap. 32.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The corporate name of the Plympton Branch Railroad Company is hereby changed, and the said corporation shall hereafter take and be known by the name of the Silver Lake Ice Company.

Name changed.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, February 29, 1856.*]

Chap. 33. AN ACT extending the time for the construction of the Boston and New York Central Railroad.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Time for construction extended to May 1, 1857.

The time within which the Boston and New York Central Railroad Company may construct that portion of their railroad which was originally incorporated as the Southbridge and Blackstone Railroad Company, is hereby extended to May first, eighteen hundred and fifty-seven: *provided, however, that any person or persons, whose land or other property has been taken by said railroad company, shall have one year, in addition to the time now allowed by law, to avail himself or themselves of the remedies provided in the thirty-ninth chapter of the Revised Statutes.* [*Approved by the Governor, February 29, 1856.*]

Proviso.

Chap. 34. AN ACT amending the Forty-Ninth Chapter of the Revised Statutes, respecting the manner of Sureties surrendering their Principals in Bail Bonds.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Power of sureties to exonerate themselves.

SECT. 1. The sureties in the bond given as required by the Revised Statutes, chapter forty-ninth, sections first and second, shall have the same power to exonerate themselves as sureties in a bail bond now have, by Revised Statutes, chapter ninety-first.

Subsequent release of persons committed.

SECT. 2. Whenever any person shall be committed on account of inability to give such bond, or shall be surrendered by his sureties, as provided in the preceding section, he shall be discharged from prison, on giving, at any time thereafter, the bond required, with sureties approved by two justices of the peace and of the quorum, of the county, in the same manner as is provided by chapter ninety-seven, section sixty-fifth, of the Revised Statutes, for the approval of sureties in a bond for the prison limits.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, February 29, 1856.*]

AN ACT to incorporate the Duston Monument Association.

Chap. 35.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Charles Corliss, George Coffin, M. G. J. Emery, Obadiah Duston, Daniel Webster, T. J. Goodrich, John Carleton, John N. Kimball, Ezra B. Welch, J. V. Smiley, George Corliss, Numa Sargent, their associates and successors, are hereby made a corporation, by the name of the Duston Monument Association, for the purpose of enclosing and improving the site of the house in Haverhill, from which Hannah Duston was taken by the Indians, and of erecting and maintaining, by voluntary subscriptions and donations, a monument thereon ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECT. 2 Said corporation may hold real and personal estate necessary and convenient for the purposes aforesaid, not exceeding in amount the sum of ten thousand dollars.

Real and personal estate not to exceed \$10,000.

SECT. 3. Said corporation shall have no power to assess or tax its members.

Members not taxed.

SECT. 4. All past and future contributors to the amount of one dollar in aid of the association, shall thereby be entitled to membership thereof, with all its privileges. [*Approved by the Governor, March 5, 1856.*]

Contributors of \$1 entitled to membership.

AN ACT to continue in force "An Act to incorporate the Hampshire Mutual Fire Insurance Company."

Chap. 36.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The act to incorporate the Hampshire Mutual Fire Insurance Company, passed on the sixth day of March, in the year one thousand eight hundred and thirty, shall be and remain in force for the term of twenty years from the sixth day of March, in the year one thousand eight hundred and fifty-eight ; and the said corporation shall be continued through that term, with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-seventh and forty-fourth chapters of the Revised Statutes, the four hundred and fifty-third chapter of the statutes of one thousand eight hundred and fifty-four, and in all the statutes which have been, or may hereafter be passed, relating to mutual fire insurance companies. [*Approved by the Governor, March 5, 1856.*]

Act continued.

Duration.

Privileges, restrictions, &c.

Chap. 37. AN ACT to establish the Office of Assistant-Clerk of the Supreme Judicial Court, in the County of Suffolk.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Assistant-clerk of S. J. Court for county of Suffolk.

SECT. 1. The justices of the supreme judicial court may, from time to time, appoint some suitable person to act as assistant-clerk of the supreme judicial court for the county of Suffolk, who shall hold his office for the term of three years from the time of his appointment, subject to be sooner removed by the supreme judicial court; he shall perform his duties under the direction of the clerk of the supreme judicial court for the county of Suffolk, shall be sworn to the faithful discharge of his duties, and shall pay over to said clerk all fees and sums received by him as such assistant, to be accounted for according to law; and he shall receive for his services, the sum of fifteen hundred dollars per annum, payable quarterly out of the treasury of the county of Suffolk.

Salary, \$1,500 per annum.

Duties.

SECT. 2. Such assistant-clerk may authenticate papers, and perform such other duties of the clerk as shall not be performed by him; and in case of the absence, neglect, removal, resignation or death of the clerk, may complete and attest any records remaining unfinished, and act as clerk of said supreme judicial court, until a new clerk be appointed and qualified.

Bond, &c.

SECT. 3. Such assistant-clerk, before entering upon the duties of his office, shall give a bond to the treasurer of the county of Suffolk, to be approved by the supreme judicial court, in a sum not less than five hundred dollars, and not exceeding two thousand dollars, with one or more sufficient sureties, with condition for the faithful discharge of the duties of his office. [*Approved by the Governor, March 5, 1856.*]

Chap. 38.

AN ACT giving further remedies in Equity.

Be it enacted by the Senate, and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

S. J. C. to have jurisdiction in equity in certain cases.

SECT. 1. The supreme judicial court shall have jurisdiction in equity, in all cases of accident or mistake where the party asking relief has not a plain, adequate and complete remedy at law, with all the powers belonging to said court in suits in equity.

Suits, how commenced.

SECT. 2. Suits in equity may be commenced by bill or by writ of attachment.

SECT. 3. All acts or parts of acts, inconsistent with the preceding section, are repealed. Inconsistent acts repealed.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, March 5, 1856.*]

AN ACT relating to the unlawful use of Private Property.

Chap. 39.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Every person, who shall, wilfully, mischievously and without right, take, drive, ride or use any horse, ass, mule, ox, or any draught animal, the property of another, without the consent of the owner, or other person having the legal custody, care or control of the same, shall be deemed to be guilty of a misdemeanor; and shall be punished by a fine not exceeding three hundred dollars, or by imprisonment in the house of correction for a term not exceeding six months: *provided*, that nothing in this act shall be so construed as to apply to any case, where the taking of the property of another is with the intent to steal the same, or when it is taken under a claim of right, or with the presumed consent of the owner, or other person having the legal control, care, or custody of the same. Unlawful taking of animals.

SECT. 2. Justices of the peace and police courts, shall have concurrent jurisdiction with the court of common pleas and the municipal court of the city of Boston, of offences under this act: *provided*, that such justices and police courts shall not have power to inflict a fine exceeding ten dollars on any conviction under this act. Justices, &c., to have concurrent jurisdiction of offences.

SECT. 3. The two hundred and ninety-fifth chapter of the acts of the year one thousand eight hundred and fifty-four, is hereby repealed: *provided*, this repeal shall not affect any prosecution previously commenced. Act of 1854 repealed.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, March 6, 1856.*]

AN ACT in addition to an Act in relation to Female Convicts.

Chap. 40.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same as follows :

SECT. 1. Justices of the police courts, shall have concurrent jurisdiction with the court of common pleas, of all questions arising under the four hundred and sixteenth chapter of the acts of the year one thousand eight hundred and fifty-four. Justices of police courts to have concurrent jurisdiction with C. Pleas.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, March 6, 1856.*]

Chap. 41. AN ACT to authorize W. C. Barstow, B. C. Ward, E. S. Rand and C. C. Gilbert, to extend their Wharf.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

May extend wharf.

W. C. Barstow, B. C. Ward, E. S. Rand and C. C. Gilbert, proprietors of a wharf and flats situated in that part of Boston called East Boston, and adjoining Condor Street, and lying between, and adjoining land and flats of the East Boston Company on the westerly side, and land and flats of B. C. Ward on the easterly side, are hereby authorized to extend and maintain their wharf aforesaid, into the harbor channel, as far as the commissioners' line, so called, as the same is now established by law, in Boston harbor; and shall have the right to lay vessels at the ends and sides thereof, and to receive wharfage and dockage therefor: *provided, however,* that this grant shall not be construed to extend to any flats or land of this Commonwealth, lying in front of the flats of any other person, or which would be comprehended by the true lines of such flats, continued to the said commissioners' line; and *provided, further,* that so much of said wharf as may be constructed below low-water mark, shall be built on piles, which piles shall not be nearer to each other than six feet in the direction of the stream, and eight feet in a transverse direction, and that this act shall in no wise impair the legal rights of any person whatever. [*Approved by the Governor, March 10, 1856.*]

Right, &c.

Proviso.

Provided, further.

Chap. 42. AN ACT to continue in force an Act to incorporate the Danvers Mutual Fire Insurance Company, and to change the corporate name of the same.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Act extended.

SECT. 1. The statutes of the year of our Lord one thousand eight hundred and twenty-nine, chapter twenty, incorporating the Danvers Mutual Fire Insurance Company, shall be continued and remain in full force for the term of twenty years from and after the twelfth day of June, in the year of our Lord one thousand eight hundred and fifty-seven: *provided,* that said company shall be subject to all the duties, liabilities and obligations, and entitled to all the privileges set forth in the thirty-seventh and forty-fourth chapters of the Revised

Duration.

Proviso.

Statutes, the four hundred and fifty-third chapter of statutes of the year one thousand eight hundred and fifty-four, and all other general laws which have been and may hereafter be enacted, relating to mutual fire insurance companies.

SECT. 2. The said Danvers Mutual Fire Insurance Company, shall hereafter be called and known by the corporate name of the South Danvers Mutual Fire Insurance Company. Name changed.

SECT. 3. This act shall take effect on and after its passage. [*Approved by the Governor, March 10, 1856.*]

AN ACT to amend an Act entitled, "An Act to authorize the Boston and Lowell Railroad Company to alter the construction of a Bridge and the location thereof," passed on the twenty-first day of May, eighteen hundred and fifty-five. *Chap. 43.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. So much of the second section of the act passed on the twenty-first day of May, in the year eighteen hundred and fifty-five, entitled, "An Act to authorize the Boston and Lowell Railroad Company to alter the construction of a bridge and the location thereof," as provides that the said Boston and Lowell Railroad Company shall be subject to the general statutes which relate to railroad corporations, which have been or may be hereafter passed, relating to such corporations, is hereby repealed. Partial repeal.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, March 10, 1856.*]

AN ACT to incorporate the Bowdoin Literary Association of Dorchester. *Chap. 44.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Elbridge Packard McElroy, Robert Vose, Jr., Owen B. Brigham and their associates, members of the society known by the name and style of the Bowdoin Literary Association of Dorchester, with their successors, are hereby made a corporation by the name of the Bowdoin Literary Association of Dorchester, for the purpose of diffusing and promoting general knowledge in the town of Dorchester ; with all the powers and privileges, and subject to all the restrictions, duties and liabilities, set forth in the forty-fourth chapter of the Revised Statutes. Corporators. Purpose. Privileges, restrictions, &c.

SECT. 2. The said corporation may hold real and personal estate, to be used for the purposes aforesaid, to an amount not exceeding the sum of thirty thousand dollars. Real and personal estate not to exceed \$30,000.
[*Approved by the Governor, March 10, 1856.*]

Chap. 45. AN ACT in addition to "An Act to incorporate the Pocha Pond Meadow and Fishing Company, in Edgartown."

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Pocha Pond Meadow and Fishing Co. to have exclusive privilege. &c.

SECT. 1. The Pocha Pond Meadow and Fishing Company, in Edgartown, in Dukes county, their successors and assigns, are hereby exclusively empowered, by seines, nets or any other fishing apparatus, at any time between the first day of March and the first day of July in each year, to take herrings from the waters of Pocha or Capepoge Ponds, in said Edgartown, or any of the outlets thereof.

Penalty for unlawful fishing.

SECT. 2. If any person shall set, stretch or drag a seine or net in said ponds, or the outlets thereof, or shall in any manner catch, or attempt to catch herrings therein, except as above provided, without the consent of said company, he shall forfeit and pay to the use of the aforesaid company the sum of twenty dollars for each offence, and an additional sum of twenty dollars for each and every barrel of herrings so taken.

Penalty for hindering passage of herring.

SECT. 3. If any person shall, in any way, hinder or prevent the herrings from passing through any or either of the aforesaid ponds or the outlets thereof, during the period aforesaid, he shall for each and every offence forfeit and pay to the use of said company the sum of one hundred dollars.

How recovered.

SECT. 4. The penalties above provided for, may be sued for and recovered in an action of debt, or an action of trespass in the case, in any court proper to try the same.

Shares

SECT. 5. The proprietors of the aforesaid corporation may increase the number of shares to sixteen.

Inconsistent acts repealed.

SECT. 6. All acts or parts of acts, inconsistent with the provisions of this act, are hereby repealed.

SECT. 7. This act shall take effect from and after its passage. [*Approved by the Governor, March 11, 1856.*]

Chap. 46. AN ACT in addition to an Act entitled, "An Act to incorporate the Mercantile Library Association," passed in the year one thousand eight hundred and forty-five.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Real and personal estate, \$100,000.

SECT. 1. The Mercantile Library Association of Boston, may hold real and personal estate, for the purposes set forth in the original act of incorporation, of the value, in all, of not more than one hundred thousand dollars. And the legal title thereto shall be vested in five trustees, who shall

To be vested in five trustees.

be appointed and controlled as provided in section second of the said original act.

SECT. 2. All persons engaged in mercantile pursuits and Members. above the age of sixteen years, and no others, shall be eligible as members of this association, and entitled to vote and act as officers thereof.

SECT. 3. The board of government of the association, Board of govern- ment. to wit,—the president, vice-president, corresponding secretary, recording secretary, treasurer, and eight directors, may receive as subscribers to the library or reading-room, and admit to the privileges thereof, any person or any May admit sub- scribers on cer- tain condition. mercantile firm who may not be eligible as a member or members of the association under this act and the act to which this is in addition, upon payment of a subscription, and complying with such other terms and conditions as the said board may prescribe.

SECT. 4. All parts of the original act of incorporation Partial repeal. inconsistent with this act, are hereby repealed. [*Approved by the Governor, March 12, 1856.*]

AN ACT respecting Naturalization.

Chap. 47.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The supreme judicial court, the court of com- S. J. Court, &c., to decide upon ap- plications for nat- uralization. mon pleas, the superior court of the county of Suffolk, when held for the transaction of civil business, shall entertain and decide upon applications of aliens for naturalization.

SECT. 2. All proceedings upon applications for natural- Proceedings to be in open court and made matter of record, &c. ization, shall be held in open court, and be made matter of record, and be entered upon the docket of the court, at the term when the primary application or declaration is made, and also at the term when the final application or declara- tion is made.

SECT. 3. So much of the twenty-eighth chapter of the Inconsistent act repealed. acts of the year one thousand eight hundred and fifty-five, as is inconsistent with this act, is hereby repealed.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, March 13, 1856.*]

Chap. 48. AN ACT in addition to several Acts to secure a Decennial Census and Statistical Information.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Compensation for taking decennial census, \$2 per day, each agent.

SECT. 1. There shall be allowed from the treasury of the Commonwealth, for each agent, duly authorized and employed, as provided in the third section of an act approved on the twenty-first day of May, in the year of our Lord eighteen hundred and fifty-five, and entitled, "An Act to secure a Decennial Census," as a compensation for his services, after the rate of two dollars a day for each agent, for the time actually employed in taking said census, reckoning ten hours as a day : *provided, however*, that if the same persons were employed at the same time for taking the census, who were required by the act approved May twenty-one, eighteen hundred and fifty-five, to obtain statistical information relating to certain branches of industry, then the sum of two dollars a day shall be equivalent to the services rendered under both acts : and *provided, farther*, that if said services were performed under an agreement made between city or town authorities and such agents, such contracts may be approved by the state auditor, and paid,—if the amount payable under such contracts do not exceed the sum above named,—said contracts to be certified, and the bills of said agents to be approved by the mayors of the several cities, and the selectmen of the several towns.

Provided.

Provided, further.

Part of act repealed.

SECT. 2. So much of the fourth section of the act approved on the twenty-first day of May, in the year eighteen hundred and fifty-five, and entitled, "An Act to obtain Statistical Information relating to certain branches of Industry," as relates to the auditing of the accounts of assessors, is hereby repealed.

SECT. 3. This act shall take effect on and after its passage. [*Approved by the Governor, March 15, 1856.*]

Chap. 49. AN ACT in addition to "An Act to incorporate the Young Men's Library Association of Worcester."

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Name changed.

SECT. 1. The Young Men's Library Association of Worcester, are hereby authorized to take the name of the Worcester Lyceum and Library Association.

SECT. 2. The Worcester Lyceum are hereby authorized

to unite with the Young Men's Library Association of Worcester, and, upon the acceptance of this act by the said Lyceum, and the said Young Men's Library Association, the property of the said Lyceum shall pass to, and be vested in, the Worcester Lyceum and Library Association.

Union of associations.

Property, how vested.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, March 15, 1856.*]

AN ACT to regulate the construction of Fish Weirs.

Chap. 50.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The mayor and aldermen of any city, and the selectmen of the several towns, lying upon the tide-waters of this Commonwealth, are hereby empowered to authorize in writing, any person to construct fish-weirs in said waters, within the limits of such city or town, for a term not exceeding five years: *provided*, said weirs shall cause no obstruction to navigation nor encroach on the rights of others.

Selectmen, &c., may authorize the construction of fish weirs.

Proviso.

SECT. 2. If any person shall wilfully injure or destroy said weirs, or any part thereof, or shall, without leave of the owners thereof, take from the same any fish found therein, he shall, upon conviction, forfeit and pay to the use of the owners of said weirs, a sum not exceeding twenty dollars, to be recovered in any court of competent jurisdiction, and shall, moreover, be liable to the parties injured, for all damages in a civil suit.

Penalty for injuring fish weirs, &c.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, March 15, 1856.*]

AN ACT to incorporate the Williams House Company.

Chap. 51.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Harvey T. Cole, Sumner Southworth, Stephen Walley, their associates and successors, are hereby made a corporation by the name of the Williams House Company, for the purpose of erecting a hotel in the town of Williamstown, and maintaining the same, and the buildings and appurtenances connected therewith; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECT. 2. The whole amount of real and personal estate

Real and personal estate, \$50,000.

Proviso.

Provided, also.

or capital stock which said corporation may hold for the purposes aforesaid, shall not exceed fifty thousand dollars: *provided*, that no shares in the capital stock of said corporation shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued; and *provided, also*, that said corporation shall not carry on the business of hotel-keeping.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, March 15, 1856.*]

Chap. 52. AN ACT to protect the Fisheries in Ipswich River, in the Towns of Hamilton, Wenham, Topsfield, Boxford and Middleton.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Fishing prohibited in certain limits.

SECT. 1. No person shall set, draw, or stretch any seine or drag-net, in any of the waters in Ipswich River, within the limits of the towns of Hamilton, Wenham, Topsfield, Boxford and Middleton.

Penalty for offending.

SECT. 2. Any person who shall offend against the provision of section first of this act, shall, for each and every offence, forfeit the sum of one hundred dollars, one-half thereof to the use of the complainant, and the other half to the town where the offence was committed.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, March 15, 1856.*]

Chap. 53. AN ACT to authorize County Commissioners to administer Oaths and Affirmations.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

County commissioners may administer oaths, &c.

SECT. 1. County Commissioners may administer oaths and affirmations, to witnesses who may appear to testify respecting any matter depending before them in their official capacity.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, March 15, 1856.*]

Chap. 54. AN ACT to authorize Daniel Crowley to extend his Wharf.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

May extend wharf.

Daniel Crowley, proprietor of a wharf and flats situated in that part of Boston called East Boston, and adjoining

Condor Street, and lying between, and adjoining land and flats of the city of Boston on the easterly side, and land and flats of Salma E. Gould, on the westerly side, is hereby authorized to extend and maintain his wharf aforesaid, into the harbor channel as far as the commissioners' line, so called, as the same is now established by law in Boston Harbor, and shall have the right to lay vessels at the ends and sides thereof, and to receive wharfage and dockage therefor: *provided, however*, that this grant shall not be construed to extend to any flats or land of this Commonwealth, lying in front of the flats of any other person, or which would be comprehended by the true lines of such flats continued to said commissioners' line; and *provided, further*, that so much of said wharf as may be constructed below low-water mark shall be built on piles, which piles shall not be nearer to each other than six feet in the direction of the stream, and eight feet in a transverse direction; and this act shall in no wise impair the legal rights of any person whatever. [Approved by the Governor, March 17, 1856.]

Rights, &c.

Proviso.

Provided, further.

AN ACT to accept the surrender of the Charter of the Railroad Mutual Fire Insurance Company. *Chap. 55.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

The surrender of the charter of the Railroad Mutual Fire Insurance Company, incorporated March twenty-second, in the year of our Lord one thousand eight hundred and fifty-one, is accepted, and the said charter shall be null and void, from and after the passage of this act. [Approved by the Governor, March 21, 1856.]

Charter surrendered.

AN ACT to incorporate the New England Railroad Mutual Fire Insurance Company. *Chap. 56.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

SECT. 1. Thomas Hopkinson, John Howe, Waldo Higginson, their associates and successors, are hereby made a corporation by the name of the New England Railroad Mutual Fire Insurance Company, in the city of Boston, for the term of twenty-eight years, for the purpose only of insuring railroad station and freight houses, and their contents, and other property in which railroad corporations may have an insurable interest, against loss or damage by fire; with all the powers and privileges, and subject to all

Corporators.

Name.

Duration.

Purpose.

Privileges, restrictions, &c.

the duties, liabilities and restrictions, set forth in the thirty-seventh and forty-fourth chapters of the Revised Statutes, the four hundred and fifty-third chapter of the statutes of the year one thousand eight hundred and fifty-four, and all other laws which have been or may hereafter be enacted relative to mutual fire insurance companies.

May insure property in other States.

SECT. 2. This company are hereby authorized to insure property for any railroad corporation incorporated by the laws of Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey and Pennsylvania, in which such corporations may have an insurable interest, against loss or damage by fire, as set forth in section first of this act.

SECT. 3. This act shall take effect on and after its passage. [*Approved by the Governor, March 21, 1856.*]

Chap. 57.

AN ACT to authorize John Pew to extend his Wharf in Gloucester.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

May extend wharf.

SECT. 1. John Pew is hereby authorized to extend his wharf, in the harbor of Gloucester, a distance not exceeding thirty-seven feet, towards the channel: *provided*, that this grant shall in no wise impair the legal rights of any person or corporation.

Proviso.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, March 21, 1856.*]

Chap. 58.

AN ACT concerning the Vermont and Massachusetts Railroad Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

May mortgage railroad, &c., to trustees, for \$1,100,000.

SECT. 1. The Vermont and Massachusetts Railroad Company are hereby authorized to mortgage to three trustees, and to the survivors and survivor of them, and each of them, and to their successors, to secure the bonds of said company to the amount of eleven hundred thousand dollars, the railroad of said company, with all the lands and buildings of said company, intended for the use and accommodation of said road and the business of the same, and all the locomotives, cars of all descriptions, tools, machinery, and implements used in working and running said road and in connection therewith, and all additions made thereto by adding new locomotives, cars, tools, machinery, and other things.

SECT. 2. Such mortgage shall be recorded in the registry of deeds of the counties of Worcester and Franklin, and in the clerk's office of the towns of Fitchburg and Greenfield. Mortgage shall be recorded, &c.
[Approved by the Governor, March 21, 1856.]

AN ACT to authorize Parker Burnham, Joseph B. Burnham and Elias Burnham to extend their Marine Railway. *Chap. 59.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Parker Burnham, Joseph B. Burnham and Elias Burnham, are hereby authorized to extend their marine railway, in the harbor of Gloucester, a distance not exceeding thirty feet towards the channel: *provided*, that this grant shall in no wise impair the legal rights of any person. Marine railway in Gloucester, extended. Proviso.

SECT. 2. This act shall take effect from and after its passage. *[Approved by the Governor, March 21, 1856.]*

AN ACT to change the Name of the State Reform School for Girls. *Chap. 60.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The State Reform School for Girls shall hereafter be called and known by the name of the State Industrial School for Girls. Name changed.
[Approved by the Governor, March 21, 1856.]

AN ACT to set off a part of the Town of Boxford and annex the same to the Town of Groveland. *Chap. 61.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. So much of the town of Boxford, in the county of Essex, with the inhabitants thereon, as lies within the following described lines, is set off from the said town of Boxford, and annexed to the town of Groveland, in said county of Essex, to wit: Beginning at a stone monument, at the north-westerly corner of the town of Georgetown, and north-easterly corner of said town of Boxford, thence running south, ten degrees thirty minutes, west, three hundred and eleven rods and five links, on a line between said towns of Georgetown and Boxford, to a stone monument, at an angle between said towns; thence running on an angle with the first mentioned line, containing forty-six degrees thirty minutes, five hundred and fifty-eight rods and twenty links, north-westerly, and between the houses of William Ross and Territory set off and annexed.

John C. Foot, and across Johnson's Pond, to a stone monument between the towns of Bradford, Boxford and Groveland; thence running easterly, on a line between said towns of Boxford and Groveland, (which is the present dividing line between said towns,) to the point first begun at: *provided, however*, that the inhabitants and land thus set off, shall be holden to pay, and shall pay, to said town of Boxford, the sum of one hundred and ten dollars and fifty cents; the said sum being their portion of the town debt of said town of Boxford: and *provided, further*, that all paupers who have gained a settlement in said town of Boxford, by a settlement gained or derived within said territory, shall be relieved or supported by said town of Groveland, in the same manner, as if they had a legal settlement in said town of Groveland.

Inhabitants of said territory to pay to Boxford \$110.50.

Provision for support of paupers.

Election of representatives.

SECT. 2. For the purpose of electing representatives to the general court, to which the said town of Boxford is entitled, until the next decennial census shall be taken, in pursuance of the thirteenth article of amendment to the constitution, the said territory shall remain and continue to be a part of the town of Boxford, and the inhabitants, resident therein, shall be entitled to vote in the choice of such representatives, and shall be eligible to the office of representative in the town of Boxford, in the same manner as if this act had not passed.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, March 21, 1856.*]

Chap. 62. AN ACT in addition to "An Act to incorporate the Proprietors of the Rural Cemetery in Worcester."

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

May hold real and personal estate necessary.

The corporation of the proprietors of the Rural Cemetery in Worcester, may take and hold, by purchase or otherwise, from time to time, so much real and personal estate, as may be necessary for the objects of their organization, any limitation in the act to which this is in addition to the contrary, notwithstanding; and all such real and personal estate shall be applied, exclusively, to purposes connected with, and appropriate to the objects of such corporation. [*Approved by the Governor, March 21, 1856.*]

How applied.

AN ACT in addition to "An Act to establish a State Reform School for Girls." *Chap. 63.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The treasurer of the State Reform School for Girls shall receive, hold and invest, for the benefit of said Reform School, all legacies, devises and donations to, or on the account of said Reform School, subject to such regulations as may be established, from time to time, by the board of trustees of said school. [*Approved by the Governor, March 21, 1856.*]

Treasurer shall receive legacies, donations, &c.

AN ACT to incorporate the Female Benevolent Society at South Danvers. *Chap. 64.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Sarah L. Winchester, Eunice W. Cook, Mary O. Poor, Maria Whitney, Tamison P. Kimball, their associates and successors, are hereby made a corporation, by the name of the Female Benevolent Society at South Danvers, for the purpose of taking, holding, investing and distributing such funds as they now have, or may hereafter be given them for the charitable and benevolent objects of their association; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECT. 2. Said corporation shall have power to establish such rules and regulations, for the management of their association, as a majority of the members may, from time to time, determine to be expedient and proper.

Rules, &c.

SECT. 3. The funds of this association shall not at any time exceed twenty-five thousand dollars.

Funds not to exceed \$25,000.

SECT. 4. This act shall take effect on and after its passage. [*Approved by the Governor, March 21, 1856.*]

AN ACT in addition to an Act to incorporate the President, Directors and Company of the Maverick Bank in East Boston. *Chap. 65.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. That so much of the first section of said act, as restricts the place of business of said bank to any particular part of Boston, be and the same is, hereby repealed.

Partial repeal.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, March 26, 1856.*]

Chap. 66. AN ACT in addition to an Act to incorporate the Dorchester Avenue Railroad Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Power to construct railway.

SECT. 1. The Dorchester Avenue Railroad Company is hereby empowered to construct, maintain and use a railway or railways, with convenient single or double tracks, to be operated by horse-power only, upon and over such streets and ways within the limits of that part of the city of Boston, which was set off from the town of Dorchester, by the four hundred and sixty-eighth chapter of the acts of the year one thousand eight hundred and fifty-five, as the mayor and aldermen of said city of Boston may, by their votes, from time to time, permit or determine; and also upon and over such streets and ways within the limits of the town of Dorchester, upon and over which the said company has not heretofore been authorized to construct said railway, as the selectmen of said town shall, by their votes, from time to time, permit or determine.

Tracks, how to be laid.

SECT. 2. All tracks of said railroad shall be laid at such distances from the side-walks, in said city of Boston and town of Dorchester, and shall be constructed and maintained in such form and manner, and upon such grades, and with such gauge, as the mayor and aldermen of said city, and the selectmen of said town, respectively, shall determine to be for the public safety and convenience; and before the location or construction of any track in any street or highway, the mayor and aldermen of said city, and selectmen of said town, respectively, shall give notice to the abutters thereon, in the manner provided in the four hundred and thirty-fifth chapter of the acts of the year one thousand eight hundred and fifty-four.

Notice to abutters.

Powers conferred, &c.

SECT. 3. The mayor and aldermen of said city of Boston, and the selectmen of said town of Dorchester, shall respectively, have and possess, in respect to the railway or railways constructed and maintained under this act, and the regulation of the rate of speed and mode of use of said tracks, and the discontinuance of the same, or any part thereof, all the powers conferred on them by the four hundred and thirty-fifth chapter of the acts of the year one thousand eight hundred and fifty-four, and all the powers and rights and privileges by this act conferred on said Dorchester Avenue Railroad Company, shall be subject to all the duties, liabilities, conditions, restrictions and provisions contained in the four hundred and thirty-fifth chapter of the

acts of the year one thousand eight hundred and fifty-four, and in the two hundred and first chapter of the acts of the year one thousand eight hundred and fifty-five. [*Approved by the Governor, March 26, 1856.*]

AN ACT to establish the office of Assistant-Attorney for the County of Suffolk. *Chap. 67.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. There shall be appointed by the Governor, with the advice and consent of the council, an assistant-attorney of the Commonwealth for the county of Suffolk, whose duty it shall be to assist, under his direction, the attorney of the Commonwealth for said county, in the performance of his official duties. Governor to appoint assistant-attorney for county of Suffolk.

SECT. 2. The said assistant-attorney shall receive for his services, an annual salary of eighteen hundred dollars, to be paid in equal quarterly payments, from the treasury of the Commonwealth. [*Approved by the Governor, March 27, 1856.*] Salary.

AN ACT in relation to Lands Mortgaged to the Commonwealth.

Chap. 68.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Whenever the title to any real estate becomes vested in the Commonwealth, by reason of the foreclosure of any mortgage, the treasurer and receiver-general may, with the approval of the governor and council, convey the same, upon the payment of the amount of the mortgage debt, for the security of which the same was originally given, with the interest and expenses that have accrued thereon. Treasurer may convey certain real estate, &c.

SECT. 2. In all cases where the treasurer and receiver-general of the Commonwealth, for the time being, shall hold as the property of the Commonwealth, any note, bond, mortgage or other security made to any predecessor in the office of the treasurer and receiver-general, he shall have the same power to transfer, assign and discharge the same, as he would have if said note, bond or other security, had been made directly to the Commonwealth. May transfer, &c., any bond or other security, given to predecessor in office, &c.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, March 27, 1856.*]

Chap. 69. AN ACT to incorporate the Webster Institute, in the City of Cambridge.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators. SECT. 1. James C. Fisk, Charles A. Fiske and A. S. Kelly, their associates and successors, are hereby made a corporation, by the name of the Webster Institute, to be established in the city of Cambridge, for the purpose of establishing and maintaining a library and reading-room, advancing the useful arts and sciences, and promoting public instruction by lectures, or otherwise ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Name.
Purpose.
Privileges, restrictions, &c.

SECT. 2. Said corporation may hold real and personal estate not exceeding in amount or value, the sum of fifty thousand dollars.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, March 28, 1856.*]

Chap. 70. AN ACT relating to the Venue of Certain Actions.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Transitory actions, in what counties shall be brought.

SECT. 1. All transitory actions shall, except in cases in which it is otherwise provided, when the plaintiff lives out of the State, be brought in the county in which the defendant lives, or in which he principally transacts his business, or follows his trade or calling, if he resides in this Commonwealth ; and when there are two or more defendants, the action may, so far as it depends on the place of residence, be brought in the county in which either of the defendants lives, or in which he principally transacts his business, or follows his trade or calling ; and when any such action is brought in any other county, the writ shall be abated, and the defendant shall be allowed double costs.

Inconsistent act repealed.

SECT. 2. So much of the fourteenth section of chapter ninety of the Revised Statutes, as is inconsistent with the provisions of this act, is hereby repealed.

Not to apply to pending actions.

SECT. 3. This act shall not apply to any action pending at the time of its passage. [*Approved by the Governor, March 28, 1856.*]

AN ACT in further addition to an Act in relation to Law Library Associations. *Chap. 71.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The county commissioners of the several counties are hereby authorized to pay and disburse, from the treasuries of their respective counties, to the treasurers of the law library associations now existing, or that may hereafter be duly organized therein, such a sum or sums as they may deem necessary and proper, for maintaining and enlarging the public law libraries for the use of the courts and citizens of the several counties ; such sum not to exceed the amount paid into the treasury of any county by the clerks of the courts.

Appropriations
for county law
libraries.

SECT. 2. The treasurer of any such law library association, before receiving said moneys, shall give a bond, with sureties, to the satisfaction of the commissioners, for the faithful application of the same, and that he will make a return annually to them, under oath, of the manner in which all such applications are made. [*Approved by the Governor, March 28, 1856.*]

Treasurer to give
bonds.

AN ACT to authorize Francis Small to extend his Wharf.

Chap. 72.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Francis Small, proprietor of a wharf in Provincetown, is hereby authorized to extend and maintain the same into Provincetown harbor, to a distance at which there shall be six feet of water at low tide: *provided, however,* that the said wharf shall not extend into the harbor or channel so as to obstruct the navigation of said harbor ; and he shall have the right to lay vessels at the end and sides of said wharf, and to receive wharfage and dockage therefor: *provided, also,* that this act shall in nowise impair the legal rights of any person ; and *provided, further,* that said wharf shall be built on piles below low-water mark. [*Approved by the Governor, March 28, 1856.*]

May extend
wharf.

Proviso.

Rights, &c.

Chap. 73.

AN ACT to authorize Shaw Norris to build a Wharf.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Wharf in Edgartown

Shaw Norris is hereby authorized to build and maintain a wharf from his land adjoining the east side of Holmes' Hole Harbor, near the termination of the county road leading from Edgartown to said harbor, extending the same one hundred feet from low-water mark, or to eight feet of water at low tide: *provided, however*, that the said wharf shall not extend into the harbor or channel so as to obstruct the navigation of said harbor; and he shall have the right to lay vessels at the end and sides of said wharf, and to receive wharfage and dockage therefor: *provided*, that this act shall not affect the legal rights of any person; and *provided, also*, that said wharf shall be built on piles below low-water mark. [Approved by the Governor, March 28, 1856.]

Proviso.

Rights, &c.

Chap. 74.

AN ACT in addition to an Act entitled, an Act authorizing James S. Chace to plant Oysters in Taunton Great River.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Time increased.

SECT. 1. The penalty imposed in the second section of the act of February twenty-eighth, in the year one thousand eight hundred and forty-six, to which this is in addition, shall be so amended as to increase the fine imposed in said act, to the sum of twenty dollars: and in addition to said fine, any person convicted of violating said right shall be imprisoned in the county jail for a term not to exceed thirty days.

Additional punishment.

SECT. 2. This act shall take effect from and after its passage. [Approved by the Governor, March 28, 1856.]

Chap. 75.

AN ACT authorizing the United States Chemical Manufacturing Company to change their Name and Location.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Change of name and location.

SECT. 1. Chapter four hundred and eleven of the acts and resolves passed in the year eighteen hundred and fifty-three, entitled, "An Act to incorporate the United States Chemical Manufacturing Company," is hereby so far amended as to authorize the said corporation to take the name of "The Coup Oil Company," in place and stead of that by which they were incorporated, and also to change the loca-

tion of their manufacturing business, or the principal portion thereof, to Hingham in the county of Plymouth.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, March 28, 1856.*]

AN ACT to authorize John N. Swazey to extend his Wharf in Lynn.

Chap. 76.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

John N. Swazey, proprietor of a wharf and flats situated in that part of the city of Lynn called West Lynn, is hereby authorized to extend and maintain said wharf the distance of five hundred feet on the adjoining flats, in a course south, eight degrees east from the head, or outer end of said wharf: May extend wharf. *provided*, that this act shall in no way affect the legal rights of any persons or corporation whatever. Proviso. [*Approved by the Governor, March 28, 1856.*]

AN ACT in addition to an Act to incorporate the Trustees of the Punchard Free School, in the Town of Andover.

Chap. 77.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The town of Andover is hereby exempted from the requirements contained in the fifth section of the twenty-third chapter of the Revised Statutes, applicable to towns containing four thousand inhabitants: Exempted from requirements of statute. *provided*, that this act shall not be construed to impair the right of the inhabitants of said town, at any legal meeting called for the purpose, to establish and maintain such a school as is required in said fifth section, of towns containing four thousand inhabitants. Proviso.

SECT. 2. This act shall take effect on and after the opening of said PUNCHARD Free School. When to take effect. [*Approved by the Governor, March 29, 1856.*]

AN ACT authorizing the County Commissioners of the County of Norfolk to construct a Bridge across the Boston and New York Central Railroad, in Dorchester.

Chap. 78.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The county commissioners for the county of Norfolk are hereby authorized to construct a bridge, with suitable approaches, in such manner as they shall judge May construct bridge in Dorchester.

expedient, over the Boston and New York Central Railroad, in Dorchester, at the place where said railroad is crossed by the highway located by said commissioners, and known as the Forest Hill Avenue, for the purpose of completing said highway and rendering the same safe and convenient to the public travel; and the said Boston and New York Central Railroad Company shall repay and reimburse to said county of Norfolk all such sums of money, expenses and charges, as shall be expended and incurred by said county in the construction of said bridge and its approaches, as aforesaid, with interest on said sums.

Railroad company to reimburse, &c.

Proceedings in case of refusal to pay, &c.

SECT. 2. In case said railroad company shall neglect or refuse to repay and reimburse said sums of money, expenses and charges, with interest as aforesaid, to said county, within ninety days after demand thereof, made by said commissioners of said railroad company, the supreme judicial court, or any justice thereof, either in term time or vacation, shall have power, by injunction or other suitable process, according to the practice of courts of equity, to compel the repayment of said sums of money, expenses and charges, with interest as aforesaid, to said county, and shall restrain and prohibit said railroad company from crossing said highway, either at grade or above or below grade, and from crossing under said bridge, until payment is made, by said company to said county, for all the sums of money expended as aforesaid, expenses, charges and interest as aforesaid, and the provisions of this act are complied with on the part of said company.

Commissioners not to construct until, &c.

SECT. 3. The said commissioners shall not be authorized by virtue of the provisions of this act to construct said bridge, until said railroad company, by a vote of the majority of the directors of said company, shall have assented to this act, and given the bond of said company, by its treasurer, to said county, conditioned to repay and reimburse to said county, on demand, the sums of money, disbursements, expenses and charges, so to be expended and incurred as aforesaid, with interest as aforesaid.

Existing liabilities not to be impaired.

SECT. 4. The remedy prescribed in this act in default of payment, shall not exclude any other remedy now existing against said company for preceding defaults, or affect in any wise the enforcement of the duties and obligations devolved, or which may devolve upon said company in any other mode allowed by law; and nothing in this act contained shall alter or affect the liability for defects in said structures, or the obligations to maintain and repair said bridge and its approaches; but said liability and obligations

shall continue as they would have existed had said bridge and its approaches been constructed by said railroad company.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, March 29, 1856.*]

AN ACT to incorporate the Haverhill Mechanics' Institute.

Chap. 79.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. James A. Bartlett, Daniel Fitts, Albert H. West, Samuel P. Prescott and Hiram A. Bagley, their associates and successors, are hereby made a corporation by the name of "The Haverhill Mechanics' Institute," to be established in the town of Haverhill, in the county of Essex, for the maintenance of a library and for scientific and literary purposes; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Privileges, restrictions, &c.

SECT. 2. Said corporation may hold real and personal estate to an amount not exceeding fifty thousand dollars, the income of which shall be devoted to the aforesaid purposes.

Real and personal estate, \$50,000.

Income, how devoted.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, March 29, 1856.*]

AN ACT to incorporate the Pacific Mutual Insurance Company.

Chap. 80.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Edward M. Robinson, Gideon Allen, Benjamin T. Ricketson, their associates and successors, are hereby made a corporation by the name of the Pacific Mutual Insurance Company, to be established in the city of New Bedford, for the purpose of making insurance against maritime losses; and for that purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the thirty-seventh and forty-fourth chapters of the Revised Statutes, the two hundred and eighty-first chapter of the acts of the year eighteen hundred and fifty-one, the four hundred and fifty-third chapter of the acts of the year eighteen hundred and fifty-four, and all acts now existing or that may hereafter be enacted relating to mutual insurance companies.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, March 31, 1856.*]

Chap. 81. AN ACT to abolish the Police Court, in the Town of Blackstone.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Police court
abolished.

SECT. 1. Chapter seventy-two of the laws of eighteen hundred and fifty-four, entitled, "An Act to establish a Police Court in the town of Blackstone," and chapter three hundred and forty-five of the laws of eighteen hundred and fifty-four, entitled, "An Act in addition to an Act to establish a Police Court in the town of Blackstone," are hereby repealed.

Pending suits,
how determined.

SECT. 2. This act shall take effect from and after its passage; but all suits, actions and prosecutions, which shall be pending before said court when this act shall take effect, shall be heard and determined as though this act had not been passed. [*Approved by the Governor, April 1, 1856.*]

Chap. 82. AN ACT authorizing the County Commissioners of the County of Middlesex to lay out a Highway and construct a Bridge over Malden River.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

May lay out high-
way and con-
struct bridge
across Malden
River.

SECT. 1. The county commissioners for the county of Middlesex, are hereby authorized and empowered, if in their judgment the public necessity and convenience require it, to lay out a highway and construct a bridge and draw across Malden River, in the town of Malden, in said county, at some place to be determined by them, between Mystic River and the Edgeworth Bridge, across the Malden River.

Commissioners,
how to proceed.

SECT. 2. Said commissioners, in laying out and constructing said road and bridge, shall, in all respects, proceed as is now provided by law for laying out and constructing highways.

Act void unless,
&c.

SECT. 3. This act shall be void unless an application shall be made to the county commissioners to lay out said highway and bridge within one year from its passage. [*Approved by the Governor, April 1, 1856.*]

AN ACT relating to Fish Ways at the several Dams on Barker's River, so called, in the Town of Pembroke. *Chap. 83.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The owners or occupants of the several mills, erected across Barker's River, may construct, in the manner prescribed by the fish committee of the town of Pembroke, for the time being, good and sufficient passages for the fish called alewives to pass said dams, up said river, to the Indian Ponds, so called, in the towns of Pembroke and Hanson; and the owners or occupants of said dams shall cause the same to be built and kept in repair, at their own expense, and the same shall be kept open from the tenth day of April to the fifteenth day of May, inclusive, in each year.

SECT. 2. In case the owners or occupants of said dams shall neglect or refuse to comply with the foregoing requisition, then said owners or occupants shall take up the wasteways of said mills, agreeable to an act entitled, "An Act to equalize and protect the Fishery on the North River, so called, in the county of Plymouth," passed the nineteenth of May, one thousand eight hundred and fifty-three.

SECT. 3. The fish committee, of the town of Pembroke, for the time being, shall have full power to regulate and control the flow of water in Barker's River and Indian Ponds, so long as they may deem it necessary for the preservation of said alewife fish in their passage to and from said Indian Ponds.

SECT. 4. All acts and parts of acts, inconsistent with this, are hereby repealed.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, April 3, 1856.*]

AN ACT to authorize the Second Parish, in West Newbury, to dispose of their Burial Grounds. *Chap. 84.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Second Parish, in West Newbury is hereby authorized to transfer and convey to any associations incorporated according to law, and formed for the purpose of improving or enlarging any of the cemeteries situated in said parish, the burial grounds belonging to said parish :

Proviso. *provided*, the majority of the aforesaid parish, at a regular meeting, duly called for that purpose, shall consent thereto.

SECT. 2. This act shall take effect on and after its passage. [*Approved by the Governor, April 3, 1856.*]

Chap. 85. AN ACT in addition to "An Act relating to Leasehold Estates."

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Partial repeal. SECT. 1. The first proviso to the first section of the two hundred and sixty-seventh chapter of the acts of the year one thousand eight hundred and forty-seven, providing that if the tenant shall pay or tender to the landlord the rent due, with interest thereon, at any time before final judgment under the proceedings provided for in the second section of said act, the lease shall be, and continue in full force, is hereby repealed.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 3, 1856.*]

Chap. 86. AN ACT to extend the time for locating and constructing the Amherst and Belchertown Railroad.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Time for locating extended. The times allowed to the Amherst and Belchertown Railroad Company, for locating and constructing its railroad, are hereby respectively extended one year beyond the periods now fixed by law, for the locating and constructing thereof. [*Approved by the Governor, April 3, 1856.*]

Chap. 87. AN ACT to authorize Zeno Crowell to build a Wharf.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Wharf in Dennis. Zeno Crowell is hereby authorized to build and maintain a wharf from his land near the light-house, in that part of Dennis known as West Dennis, extending the same to two feet of water at low tide ; and he is further authorized to build and maintain a section from the end of, and transversely with, said wharf, seventy-five feet in length, and twelve feet in breadth ; and he shall have the right to lay vessels and boats at any part of said wharf, and to receive wharfage and dockage therefor : *provided*, that this act shall in nowise impair the legal rights of any person or corporation. [*Approved by the Governor, April 3, 1856.*]

Proviso.

AN ACT in addition to an Act to authorize the Newburyport Railroad Company to construct a Branch Railroad. *Chap. 88.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The time within which the Newburyport Railroad Company is required to file the location of the branch railroad, the construction whereof is authorized by the sixty-second chapter of the acts of the year one thousand eight hundred and fifty-five, is hereby extended to the first day of October next. Time for filing location extended.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 3, 1856.*]

AN ACT in addition to "An Act to authorize W. C. Barstow, B. C. Ward, E. S. Rand and C. C. Gilbert, to extend their Wharf." *Chap. 89.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The provisions of the forty-first chapter of the acts of the year one thousand eight hundred and fifty-six, passed March the tenth, are so far amended as that said wharf and flats shall be bounded on land and flats of E. S. Rand on the easterly side thereof, instead of lands and flats of B. C. Ward, as therein mentioned. Act amended.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 3, 1856.*]

AN ACT in addition to certain Acts authorizing Benjamin W. Miller to plant Oysters in Taunton Great River. *Chap. 90.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The penalty imposed in the second section of the act entitled, "An Act authorizing Benjamin W. Miller to plant oysters in Taunton Great River," passed February twenty-eighth, in the year one thousand eight hundred and forty-six, to which this is in addition, shall be so amended as to increase the fine imposed in said act, to the sum of twenty dollars; and in addition to said fine, any person convicted of violating said right, shall be imprisoned in the county jail, for a term not to exceed thirty days. Act of 1846 amended. Additional fine. Imprisonment.

SECT. 2. The penalty imposed in the second section of the act entitled, "An Act authorizing Benjamin W. Miller to plant oysters in Taunton Great River," passed March twelfth, in the year one thousand eight hundred and forty-seven, to Act of 1847 amended.

Fine and imprisonment.

which this is in addition, shall be so amended that in addition to the fine imposed in said act, any person convicted of violating said right, shall be imprisoned in the county jail for a term not to exceed thirty days.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, April 3, 1856.*]

Chap. 91. AN ACT to change the Corporate Name of the Fourth Congregational Precinct, in Rochester, and for other purposes.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporate name changed.

SECT. 1. The corporate name of the Fourth Congregational Precinct in Rochester, is hereby changed; and said precinct shall hereafter be called and known by the name of the Congregational Church and Society in Marion. All the funds, rights, privileges and immunities of the aforesaid precinct, are hereby confirmed to them under their new name.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 3, 1856.*]

Chap. 92. AN ACT to authorize Albert Bowker and Joshua Bates to build and extend their Wharves.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

May build and extend wharves.

Albert Bowker and Joshua Bates, proprietors of wharves and flats situate on Eagle and Chelsea Streets, in that part of Boston known as East Boston, and lying between the land and flats of the Glendon Rolling Mill and the Chelsea Free Bridge, are hereby authorized to build, extend and maintain, wharves from the said flats into the harbor channel, as far as the line established by the act entitled, "An Act to preserve that part of the Harbor of Boston called Chelsea Creek, and to prevent encroachments therein," passed on the second day of May, in the year one thousand eight hundred and forty-nine; and they shall have the right to lay vessels at the ends and sides of said wharves, and to receive wharfage and dockage therefor: *provided, however,* that this grant shall not be construed to extend to any flats or lands of this Commonwealth, lying in front of the flats of any other person, or which would be comprehended by the true line of such flats continued to the commissioners' line; and *provided, also,* that so much of the said wharves as

Rights, &c.

Proviso.

Provided, also.

may be constructed below low-water mark shall be built on piles, which piles shall not be nearer to each other than six feet in the direction of the stream, and eight feet in a transverse direction, and that this act shall in nowise affect the legal rights of any person or corporation. [*Approved by the Governor, April 3, 1856.*]

AN ACT to incorporate the Framingham Hotel Company.

Chap. 93.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. James W. Clark, C. C. Esty, Francis Jaques, Corporators. their associates and successors, are hereby made a corporation by the name of the Framingham Hotel Company, for Name. the purpose of erecting a hotel in the town of Framingham, Purpose. and maintaining the same, and the buildings and appurtenances connected therewith: with all the powers and privileges, Privileges, restrictions, &c. and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. The whole amount of real and personal estate Capital stock, \$50,000. or capital stock, which said corporation may hold, for the purposes aforesaid, shall not exceed fifty thousand dollars: *provided*, that no shares in the capital stock of said corporation shall be issued for a less sum or amount to be actually Proviso. paid in on each, than the par value of the shares which shall be first issued; and *provided, also*, that said corporation shall not carry on the business of hotel-keeping. Provided, also.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, April 3, 1856.*]

AN ACT to extend the time for locating and constructing the Rockport Railroad. Chap. 94.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The time allowed to the Rockport Railroad Company for Time for constructing extended. locating and constructing its railroad, is hereby extended to the first day of June, in the year eighteen hundred and fifty-seven. [*Approved by the Governor, April 3, 1856.*]

Chap. 95.

AN ACT in relation to the Boston Clearing House.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Specie deposited, &c., to be deemed as actually in bank.

SECT. 1. The specie belonging to the banks in Boston, connected with the Boston Clearing House, and placed by them in a depository bank as special deposit, shall be taken and considered, in the returns required by law to be made to the Secretary of the Commonwealth, as specie actually in the bank depositing the same.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 5, 1856.*]

Chap. 96.

AN ACT relating to the return of Writs in Civil Actions before Justices of the Peace and Police Courts.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Return of writs, &c., in civil actions.

In civil actions before justices of the peace and police courts, the writ, or other process, shall not be returnable earlier than nine o'clock in the forenoon, nor later than five o'clock in the afternoon, of the day on which said writ or other process is returnable. [*Approved by the Governor, April 5, 1856.*]

Chap. 97.

AN ACT to set off a part of the Town of Stoneham and annex the same to the Town of South Reading.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Annexed to South Reading.

Boundaries.

SECT. 1. All that part of the town of Stoneham, in the county of Middlesex, with the inhabitants thereon, lying north-easterly of the following described line, is hereby set off from the town of Stoneham and annexed to the town of South Reading, to wit: Beginning at the boundary between said towns of Stoneham and South Reading, at a stone monument in the Taylor Pasture, so called, and running south, twenty-one degrees east, one hundred and forty and five-tenths rods, to the wall on the northerly side of the road, called in South Reading, Albion Street, near its junction with Broadway, so called; thence south, thirty-seven degrees east, one hundred and fifty-seven and five-tenths rods, more or less, to the boundary line between said towns of Stoneham and South Reading, at the south-west corner of Crystal Lake, containing about one hundred and ninety acres: *pro-*

vided, however, that for the purpose of electing the representative to the general court, to which said town of Stoneham shall be entitled until the next apportionment of representatives, according to the provisions of the thirteenth article of amendment of the constitution, the said territory shall continue to be and remain a part of said town of Stoneham; and the selectmen of the said town of South Reading shall furnish to the selectmen of the town of Stoneham, fourteen days at least before the Tuesday next after the first Monday in November, annually, a true list of all persons resident on said territory, who may be entitled to vote in the choice of representative, as aforesaid, in said town of Stoneham.

To remain a part of Stoneham for election of representatives to general court.

Selectmen to furnish list of voters.

SECT. 2. The inhabitants and estates hereby set off shall be holden to pay all arrears of taxes which may have been legally assessed on them, by the town of Stoneham, before the passage of this act; and their proportion of all state and county taxes which the town of Stoneham may be required to pay previous to the taking of the next State valuation, the town of South Reading shall be holden to pay; said proportion to be ascertained and determined by the valuation of the town of Stoneham next preceding the passage of this act. And the town of South Reading is hereby required to pay, within a reasonable time after the assessment of such taxes, on demand, to the town of Stoneham, such proportion, ascertained and determined as aforesaid, of the state and county taxes required to be raised by the town of Stoneham.

Inhabitants to pay arrear taxes, as specified.

SECT. 3. The town of South Reading shall be liable for the support of all persons who may, after the passage of this act, stand in need of relief as paupers, whose settlement was gained by, or derived from, a residence within the limits of the territory set off as aforesaid.

Support of paupers.

SECT. 4. In case the surplus revenue of the United States, heretofore received by said town of Stoneham, should ever be refunded, the town of South Reading shall pay such proportion of the same as the valuation of the polls and estates of said territory bears to the whole valuation of said town of Stoneham.

Surplus revenue.

SECT. 5. This act shall take effect on and after its passage. [*Approved by the Governor, April 5, 1856.*]

Chap. 98. AN ACT to incorporate the Boston and Kennebec Steamboat Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.	SECT. 1. William B. Haseltine, Nathaniel Kimball, E. J. Taylor and Charles M. Carter, their associates and successors, are hereby made a corporation by the name of the Boston and Kennebec Steamboat Company, for the term of fifteen years, for the purpose of owning and running a steamboat or steamboats for the convenience of the public travel and the transportation of merchandise between the city of Boston and the city of Hallowell on the Kennebec river; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and all other laws that have been or may hereafter be enacted relating to steamboat companies.
Name.	
Term.	
Purpose.	
Privileges, restrictions, &c.	
Capital not to exceed \$150,000.	SECT. 2. The capital stock of said corporation shall not exceed the sum of one hundred and fifty thousand dollars: <i>provided</i> , that no shares in said capital stock shall be issued for a less sum or amount, to be paid in on each, than the par value of the shares first issued.
Proviso.	
Act not to affect legal rights, &c.	SECT. 3. This act shall not be so construed as to affect the legal rights of any person or corporation whatsoever. [<i>Approved by the Governor, April 7, 1856.</i>]

Chap. 99.

AN ACT concerning Husband and Wife.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Wife of insane husband may apply to judge of probate for allowance, &c.	SECT. 1. The wife of any person under guardianship for idiocy or insanity, may apply to the judge of the probate court for the county in which said guardian may reside, for an allowance for her support out of the estate of her husband, to be paid to her by said gaurdian during the continuance of such guardianship; and the amount of said allowance, if made, shall be determined by commissioners, appointed by the said judge of probate, whenever she shall petition for the same.
Commissioners to determine amount.	
Former act repealed.	SECT. 2. The four hundred and fifty-eighth chapter of the acts of the year one thousand eight hundred and fifty-five, entitled an act providing for the maintenance of wives whose husbands are under guardianship for idiocy or insanity, is hereby repealed.
	SECT. 3. This act shall take effect from and after its passage. [<i>Approved by the Governor, April 7, 1856.</i>]

AN ACT to cede to the United States Jurisdiction over certain Lands and Shoals in the City and Harbor of New Bedford, and for other purposes. *Chap. 100*

Be it enacted by the Senate, and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Jurisdiction is hereby ceded to the United States over Egg Island Shoal, in the harbor of New Bedford, to include all of said shoal above or within low-water mark, and so much thereof without low-water mark, as shall be bounded by lines drawn four hundred yards distant from, and parallel to, the faces of any fort to be built thereon. Jurisdiction is also ceded to the United States over any tract or tracts of land on Clark's Point, in the city of New Bedford, that may be acquired by the United States for the purpose of building and maintaining thereon, forts, magazines, arsenals, dock-yards, wharves and other structures with their appendages; and over all the contiguous shores, flats and waters, within four hundred yards from low-water mark; and all right, title and claim which this Commonwealth may have to, or in the premises aforesaid, is hereby granted to the United States: *provided*, that this Commonwealth shall retain a concurrent jurisdiction with the United States in and over all the premises aforesaid, so far as that all civil processes, and such criminal processes, as may issue, under the authority of this Commonwealth, against any person or persons charged with crimes committed without the premises aforesaid, may be executed therein in the same way and manner as if jurisdiction had not been ceded as aforesaid.

SECT. 2. The premises over which jurisdiction is granted by this act, and all structures and other property thereon, shall be exonerated and discharged from all taxes and assessments, which may be laid or imposed under the authority of this Commonwealth, while said premises shall remain the property of the United States, and shall be used for the purposes intended by this act.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, April 8, 1856.*]

AN ACT concerning Vacancies in School Committees.

Chap. 101

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Whenever vacancies occur in the school committee of any town or city in this Commonwealth, or when from any cause any member or members of said committee

are unable to act, the remaining member or members, together with the selectmen of said town, or the mayor and aldermen of said city, assembled in convention, shall, by joint ballot fill vacancies in said committee; and the school returns, signed by a majority of the committee thus constituted, shall be equally valid as if signed by a majority of the committee originally chosen.

SECT. 2. The convention provided for in section first shall be called by the remaining member or members of the said committee.

Returns to be valid.

Inconsistent acts repealed.

SECT. 3. The act entitled, "An Act concerning vacancies in School Committees," approved May twenty-fourth, eighteen hundred and fifty-one, and all other acts or parts of acts, inconsistent with this act, are hereby repealed.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, April 8, 1856.*]

Chap. 102 AN ACT in addition to "An Act Suppressing Horse-Racing," approved on the eighth day of April, in the year eighteen hundred and forty-six.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Location, &c., of trotting parks.

SECT. 1. No land shall, within any town or city of this Commonwealth, be laid out or used as a race ground or trotting park, for admission to which, of persons or property, any money or other valuable consideration shall be directly or indirectly taken or required, without the previous consent of, and location by the selectmen of such town, or the mayor and aldermen of such city, who shall also, at any and all times, have the right to regulate and alter the terms and conditions under which the same shall be laid out, used, or continued in use, and to discontinue the same when, in their judgment, the public good so requires; and no land within this Commonwealth shall be used for any of the purposes mentioned in the act to which this is in addition.

Selectmen, &c., may alter terms and conditions.

Unlawful race grounds to be deemed as nuisances.

SECT. 2. Every race ground or trotting park which shall be established, laid out, used or continued in use, contrary to the provisions of this act, or the act to which this is in addition, is hereby declared a common nuisance, and shall be abated as such.

Punishment for violation, &c.

SECT. 3. All persons owning, keeping, using, or permitting to be used, any race ground or trotting park, contrary to the provisions of this act, or of the act to which this is in addition, or aiding or abetting therein, shall be guilty of misdemeanor; and upon conviction thereof, shall be punished in the manner provided in the act to which this is in addition.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, April 8, 1856.*]

AN ACT to incorporate the Jamaica Plain Athenæum.

Chap. 103

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Stephen M. Weld, William P. Jarvis, Joseph W. Balch, Melancthon Smith, their associates and successors, are hereby made a corporation by the name of the Jamaica Plain Athenæum, for the purpose of establishing and maintaining, in the town of West Roxbury, in the county of Norfolk, a lyceum, public library, reading-room, and hall for lectures on scientific and literary subjects, and for promoting such other kindred objects as the members of said corporation shall, from time to time, deem advisable and proper; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECT. 2. The said corporation may hold for the purposes aforesaid, real estate to the amount of twenty-five thousand dollars, and personal estate to the amount of fifteen thousand dollars, and the whole capital stock of said corporation shall not exceed the sum of forty thousand dollars.

Real estate, \$25,000, and personal estate, \$15,000.

Capital not to exceed \$40,000.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, April 8, 1856.*]

AN ACT concerning the Middlesex Railroad Company.

Chap. 104

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The time, within which ten per cent. of the capital stock of the Middlesex Railroad Company, is required to be paid in, by chapter four hundred and thirty-four of the acts of eighteen hundred and fifty-four, is hereby extended one year from the time now fixed by law. [*Approved by the Governor, April 8, 1856.*]

Time for payment extended.

AN ACT concerning the Norfolk and Bristol Turnpike Corporation.

Chap. 105

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. So much of the act passed on the tenth day of February, in the year eighteen hundred and three, as

Partial repeal.

authorizes and empowers the Norfolk and Bristol Turnpike Corporation to construct a highway within the present limits of the city of Roxbury, is hereby repealed. And said corporation are no longer authorized to receive any tolls on the road which they made under and by virtue of said act, within the city of Roxbury, or to claim any right or interest whatever in the soil and freehold of the land over which said road passes, within the city of Roxbury, and they are relieved from their obligations to keep the same in repair: *provided*, that this act is not to interfere with the right of the county commissioners for the county of Norfolk, to lay out that part of said road as a common highway, and the said corporation are to claim no damages therefor; and *provided, also*, that this act shall not be interpreted to interfere with the present right of said corporation, to collect toll on the remaining portion of their road.

Proviso.

Provided, also.

New road may be substituted on discontinuance of certain portion of turnpike.

SECT. 2. Whenever the rest of said turnpike is discontinued, abandoned, or laid out by the county commissioners, and the road contemplated by the plan of William A. Garbett, over land of Franklin Weld and others, in West Roxbury, and over the Boston and Providence Railroad, in said town, near the Forest Hills station, is completed, all the present road between the southern and northern *termini* of the new road in said town may be discontinued, and the new road, laid out on the plan of said Garbett, may be substituted therefor. [*Approved by the Governor, April 14, 1856.*]

Chap. 106

AN ACT to incorporate the Gardner Library Association.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

Real and personal estate, \$20,000.

How appropriated.

SECT. 1. Charles C. Temple, Charles C. Hall, George A. Haynes, and Frank S. Hall, their associates and successors, are hereby made a corporation by the name of the Gardner Library Association, of Dorchester Lower Mills, for the purposes of moral and mental culture, the establishing and maintaining a library, the encouragement of the arts and sciences, and for charitable uses; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. The said corporation may hold real estate to an amount not exceeding ten thousand dollars, and personal estate to an amount not exceeding ten thousand dollars, to be appropriated to the purposes aforesaid.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, April 14, 1856.*]

AN ACT in addition to an Act to extend Albany Street, in the City of Boston. *Chap. 107*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The city of Boston is hereby authorized to extend Albany Street to, and connect the same with, any bridge that may be constructed in pursuance of "An Act to extend Albany Street, in the city of Boston," passed on the nineteenth day of March, one thousand eight hundred and fifty-five, and also to take, fill up and grade, such land (whether covered by water or otherwise) as may be necessary for that purpose: *provided*, that such extension of said street shall not affect any rights of the Commonwealth in the land over which said street may be extended, nor the rights of any corporation now existing, nor the rights of any private individual. Extension of street. Proviso.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 14, 1856.*]

AN ACT relating to Lunatics and Idiots.

Chap. 108

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. When it shall be made to appear, on application in writing, to any two justices of the peace, one of whom shall be of the quorum, or to any police court, that any person, being within the jurisdiction of said justices or court, and having no known settlement within this Commonwealth, is a lunatic or insane, such justices or court are hereby authorized to order the confinement of such person in one of the State lunatic hospitals, instead of any county receptacle, or other county institution. Justices, &c., may order confinement of lunatics in State hospital.

SECT. 2. The superintendent of either of the State lunatic hospitals, with the consent of the trustees of said hospitals, may, at any time, send any persons committed to said hospitals by any justices or court, by virtue of this act, or any other act of this Commonwealth, having no known settlement in this Commonwealth, to either of the State almshouses, there to be supported, employed and governed, in the same manner as are persons sent to said almshouses by overseers of the poor. Superintendent, &c., may send person committed to State almshouse.

SECT. 3. When it shall be made to appear, on application,

Justices, &c., may send idiots to State almshouse.

in writing, to any two justices of the peace, one of whom shall be of the quorum, or to any police court, that any person within the jurisdiction of said justices or court, and having no known settlement in this Commonwealth, is idiotic, and ought to be confined, said justices or court are hereby authorized and required to send such person to the nearest State almshouse, there to be supported, governed and employed, in the same manner as are persons sent to said almshouses by overseers of the poor.

Support of lunatics committed to State hospitals.

SECT. 4. All persons committed to either of the State lunatic hospitals, as provided in the first section, shall be supported at the expense of the Commonwealth: *provided*, if, at any time, it shall be ascertained that any of said persons have a settlement in any city or town in this Commonwealth, or any kindred obligated by law to maintain them, the treasurers of said hospitals may recover the expense of the support of said persons, in the manner provided in like cases in chapter forty-eight of the Revised Statutes.

Support of persons committed to State almshouse.

SECT. 5. If it shall be at any time ascertained, that any persons committed to either of the State almshouses, as provided in sections two and three, have a settlement in any city or town in this Commonwealth, or have any kindred obligated by law to maintain them, the inspectors of said almshouses may recover from said cities or towns, or from said kindred, all expenses that may have accrued for the support of the persons committed to said almshouses, as aforesaid.

Officers' fees, &c.

SECT. 6. In any case that may arise under this act, all magistrates and other officers, and all witnesses, shall receive the same fees and compensation for services performed, and for attendance and travel, as are allowed by law for like services in criminal proceedings, to be taxed, allowed and paid in the same manner.

Inconsistent acts repealed.

SECT. 7. All acts and parts of acts, inconsistent with this act, are hereby repealed.

SECT. 8. This act shall take effect from and after its passage. [*Approved by the Governor, April 14, 1856.*]

Chap. 109 AN ACT in addition to an Act to incorporate the East Boston Free Bridge.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

City authorized to purchase bridge, &c.

SECT. 1. The city of Boston is hereby authorized to purchase the bridge which the East Boston Free Bridge Corporation were authorized to build, by the act to which this

is in addition, and also any other property of said corporation, to hold and maintain the same for the purposes named in said act.

SECT. 2. The city of Boston is hereby authorized to construct such guards or piers, as the safety of said bridge may require.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, April 14, 1856.*]

AN ACT to incorporate the Salisbury Mills.

Chap. 110

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. William D. Pickman, Francis B. Crowninshield, William T. Eustis, their associates and successors, are hereby authorized to organize a corporation by the name of the Salisbury Mills, for the purpose of manufacturing woollen and cotton goods in the towns of Salisbury and Amesbury, in the county of Essex, with the right to hold real and personal estate necessary and convenient for the purposes aforesaid, not exceeding in amount one million dollars ; and with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the one hundred and thirty-third chapter of the acts of the year eighteen hundred and fifty-one, and the several acts in addition thereto, except so much of said acts as limits the capital stock of such corporations to five hundred thousand dollars.

Corporators

Purpose.

Real and personal estate, \$1,000,000.

Privileges, restrictions, &c.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 14, 1856.*]

AN ACT to authorize John Gary to extend his Wharf.

Chap. 111

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

John Gary, proprietor of a wharf situated in Charlestown, on the easterly side of Mystic River, and on the southerly side of Malden Bridge, is hereby authorized to extend and maintain his wharf, not exceeding its present width, towards the channel of Mystic River as far as the eighth pile pier of Malden Bridge, from the abutment thereof, being about ninety-six feet from the end of his present structure ; and he shall have the right to lay vessels at the end and sides of said wharf, and receive wharfage and dockage therefor: *provided, however,* that this grant

Wharf in Charlestown.

Rights, &c.

Proviso.

Provided, further.

shall not be construed to extend to any flats or land lying in front of the flats of any other person or of any corporation, or which would be comprehended by the true lines of such flats continued; and *provided, further*, that the wharf hereby authorized to be constructed, shall be built on piles, which piles shall not be nearer to each other, than six feet in the direction of the stream, and in a transverse direction shall be in a line with the pile piers of Malden Bridge, and that this act shall in no wise impair the legal rights of any person or corporation whatever; and *provided, also*, that said Gary shall remove so much of the timbers and stones, which constitute the landing of the old ferry, formerly known as Penny Ferry, as are outside of the line to which he is by this act authorized to extend his wharf. [*Approved by the Governor, April 15, 1856.*]

Chap. 112 AN ACT in further addition to "An Act to establish the City of Cambridge."

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Choice of assessors and assistants.

SECT. 1. The city council is hereby authorized to elect, by joint ballot, in convention, three persons to be assessors, one from each ward, who shall hold their offices for the term of three years, and until their successors are chosen and qualified; and such number of assistant-assessors as the city council may, from time to time, determine, who shall hold their offices for the term of one year.

Terms of office, how determined, &c.

SECT. 2. At the first election under this act, which shall be in January, in the year one thousand eight hundred and fifty-seven, three assessors shall be chosen, and the term of their office shall be determined by lot by the mayor and aldermen; one of the assessors so chosen shall remain in office until January, one thousand eight hundred and fifty-eight; the second shall remain in office until January, one thousand eight hundred and fifty-nine; and the third shall remain in office until January, one thousand eight hundred and sixty; after which first election, one assessor shall be elected during the month of January in each year, who shall hold his office for the term of three years.

Vacancies, how filled.

SECT. 3. Whenever a vacancy shall exist in the board of assessors or assistant-assessors, by neglect or refusal to serve, by death, resignation or any other cause, the city council shall, in like manner, fill the same as soon as may be after knowledge of the existence of such vacancy.

SECT. 4. The city council shall also, in the month of

January, annually, in convention, fill all vacancies that may exist in the board of overseers of the poor or school committee, by reason of a failure to elect by the inhabitants at their annual meeting. The candidates for filling such vacancies shall be determined in the manner provided in the constitution of the Commonwealth for filling vacancies in the State senate. All subsequent vacancies in either of said boards of officers, arising from a neglect or refusal to serve, by death, resignation or any other cause, may be filled by the city council, in like manner, from the citizens at large.

Vacancies in board of overseers, &c., how filled.

SECT. 5. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

Inconsistent acts repealed.

SECT. 6. This act shall be void unless the inhabitants of the said city of Cambridge, at a legal meeting called for that purpose, shall, by a majority of the voters present, and voting thereon by ballot, determine to adopt the same. [*Approved by the Governor, April 15, 1856.*]

Act void unless, &c.

AN ACT concerning the Observance of Certain Days.

Chap. 113

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

SECT. 1. There shall be no sessions of the general court of Massachusetts, for the transaction of ordinary business, and no sessions of the courts of this Commonwealth for the trial of causes upon the days herein specified, viz. :—The annual Thanksgiving and Fast days, Christmas day, the twenty-second day of February, and the twenty-third day of February when the twenty-second occurs on Sunday; the fourth day of July, and the fifth day of July when the fourth day occurs on Sunday: and all the public offices shall be closed upon the said days.

Public business suspended on certain days.

SECT. 2. All bills of exchange, drafts and promissory notes or contracts whatsoever, that shall be due and payable, or to be executed upon the aforesaid days, or upon Sundays, shall be payable or performable upon the business day next preceding said days; and, in case of non-payment or non-fulfilment, may be noted and protested upon such preceding day: *provided*, that it shall not be necessary for the holder or holders of such obligations aforesaid, to give notice of the dishonor, non-payment or non-fulfilment thereof, until the business day next following the days above specified; and all notices so given shall be valid and effectual to all intents and purposes.

Payment of drafts, &c.

Proviso.

SECT. 3. The one hundred and eighty-second chapter of Acts repealed.

Acts repealed.

the statutes of one thousand eight hundred and thirty-eight, and the ninety-first chapter of the statutes of one thousand eight hundred and fifty-five, are hereby repealed. [*Approved by the Governor, April 15, 1856.*]

Chap. 114 AN ACT concerning the Boston, Barre and Gardner Railroad Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Time for constructing road extended to July 1, 1857.

SECT. 1. The time allowed to the Boston, Barre and Gardner Railroad Corporation, for constructing their railroad, is hereby extended to the first day of July, in the year one thousand eight hundred and fifty-seven.

Time for estimating damages extended three years.

SECT. 2. The time within which application may be made to the county commissioners, to estimate damages for land or property taken by said railroad corporation as provided in the Revised Statutes, is hereby extended for three years from and after the passage of this act, notwithstanding the said corporation may have heretofore filed the location of their railroad. [*Approved by the Governor, April 15, 1856.*]

Chap. 115 AN ACT to incorporate the Fall River Athenæum.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

SECT. 1. Phineas W. Leland, Foster Hooper, Benjamin Earl, their associates and successors, are hereby made a corporation by the name of the Fall River Athenæum, to be established in the city of Fall River, in the county of Bristol, for the purpose of maintaining a library, advancing the useful arts and sciences, and for the preservation of objects of art and natural history; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Name.

Purpose.

Privileges, restrictions, &c.

Real and personal estate, \$30,000; how appropriated.

SECT. 2. Said corporation may hold real and personal estate to an amount not exceeding thirty thousand dollars, to be appropriated exclusively to the purposes set forth in section first of this act. [*Approved by the Governor, April 15, 1856.*]

AN ACT concerning the Registry of Deeds in the Town of Littleton.

Chap. 116

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The town of Littleton, in the county of Middlesex, is hereby set off to the northern district in said county, for the registry of deeds; and all deeds, conveyances, and other instruments therein, now required by law to be recorded in Cambridge, shall hereafter be recorded in the office for the registry of deeds at Lowell, in said district.

Deeds, &c., in Littleton, to be recorded in Lowell.

SECT. 2. This act shall take effect on and after the first day of June, in the year one thousand eight hundred and fifty-six. [*Approved by the Governor, April 15, 1856.*]

When to take effect.

AN ACT to incorporate the Trustees of the Worcester District Methodist Episcopal Church Camp-Meeting Association.

Chap. 117

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Jonathan D. Bridge, of Wilbraham, Daniel E. Chapin, of Lowell, J. C. Lane, of Leominster, William H. Thurston, of Oxford, and George M. Buttrick, of Barre, their associates and successors, are hereby made a corporation by the name of the Worcester District Methodist Episcopal Church Camp-Meeting Association; with all the powers and privileges, and subject to all the duties, restrictions, and liabilities set forth in the forty-fourth chapter of the Revised Statutes of this Commonwealth.

Corporators.

Name.

Privileges, restrictions, &c.

SECT. 2. Said corporation shall have power to receive, hold and manage all the property, real and personal, belonging to said association; and any gift, grant, bequest or donation, that may be made to them for the benefit of said association, shall be held in trust for the support and maintenance of the camp-meeting, under the direction of said association: *provided*, the amount thereof shall not exceed five thousand dollars.

Corporation to manage property of association.

Gifts, grants, &c., to be held in trust, &c.

Proviso.

SECT. 3. The number of trustees of the aforesaid association shall, at no time, be less than five, or more than nine, a majority of whom shall constitute a quorum for doing business; and all vacancies that may occur by death, or otherwise, shall be filled by the preachers and tent-masters of said camp-meeting, at the annual meeting.

Number of trustees.

Vacancies, how filled.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, April 15, 1856.*]

Chap. 118 AN ACT to provide for the election of a Register of Deeds for the County of Suffolk.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Election of register of deeds for Suffolk County.

SECT. 1. On the fourth Monday of April, in the year one thousand eight hundred and fifty-six, there shall be chosen by the qualified voters in the county of Suffolk, a suitable person, being a resident of said county, to be a register of deeds therefor, who shall hold his said office until the annual election which will be in the year one thousand eight hundred and fifty-eight, and until another shall be chosen and qualified in his stead, and no longer.

Future elections.

SECT. 2. At the annual election in the year one thousand eight hundred and fifty-eight, there shall be chosen in the manner aforesaid, a suitable person, being a resident in said county, to be register of deeds therefor, who shall hold his said office on the same terms and for the same length of time as registers of deeds who shall be elected in the other counties in this Commonwealth (except Nantucket) under the provisions of chapter ninety-two of the acts of the year one thousand eight hundred and fifty-five, entitled, "An Act concerning the election of County Treasurers and Registers of Deeds." And thereafter, the register of deeds in said county of Suffolk shall be chosen and shall hold his office in the same manner as if said county of Suffolk had not been excepted from the operation of the act aforesaid.

Duty of town and city officers.

SECT. 3. The officers of the several wards, and the city clerk of the city of Boston, and the selectmen and the town clerks of the several towns in said county of Suffolk, shall perform all the duties in respect to said election which would have been required of them under said act, had the county of Suffolk not been excepted from the operation thereof.

Board of aldermen to exercise same power as county commissioners, &c.

SECT. 4. The board of aldermen of the city of Boston shall, as to all matters relating to said register of deeds, have the like powers and perform the like duties as are exercised and performed by county commissioners in other counties, except that they shall within ten days after said election, examine the returns of votes given for said register of deeds, and certify the result in the form prescribed by law.

Inconsistent laws repealed.

SECT. 5. This act shall take effect on and after its passage, and all laws inconsistent herewith, are hereby repealed. [Approved by the Governor, April 19, 1856.]

AN ACT to authorize Augustus C. Carey to build a Wharf.

Chap. 119

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Augustus C. Carey is hereby authorized to build and maintain a wharf extending from his lot of land, and adjoining land of Isaiah Rogers and Isaiah A. Rogers, in the town of Ipswich, one hundred feet; and shall have the right to lay vessels at the end and sides of said wharf, and to receive wharfage and dockage therefor: *provided*, that this grant shall not interfere with the legal rights of any person or persons.

Wharf in Ipswich.

Rights, &c.

Proviso.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 19, 1856.*]

AN ACT to incorporate the Boston and Cape Cod Marine Telegraph Company.

Chap. 120

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. George Marston, Henry Crocker, Silvanus B. Phinney, Thomas Harris and A. J. Baldwin, their associates and successors, are hereby made a corporation by the name of the Boston and Cape Cod Marine Telegraph Company, for the purpose of owning and maintaining the line of magnetic telegraph now erected from the city of Boston, along the line of the Old Colony and Fall River, and the Cape Cod Railroads, and thence to Chatham and Provincetown in the county of Barnstable; and of constructing and maintaining an extension of the same to such other points on the southern shore of Massachusetts as may hereafter, by said corporation, be deemed expedient; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, provided in the statutes relating to telegraph companies, heretofore passed.

Corporators.

Purpose.

Privileges, restrictions, &c.

SECT. 2. The said corporation shall have authority to erect such telegraph lines, under the rules provided by law, in all the towns of this Commonwealth through which such lines may pass, and to sink submarine cables of wires in such places as may be necessary.

May construct lines of telegraph.

SECT. 3. The certificate required to be filed by the third section of the two hundred and forty-seventh chapter of the statutes passed in the year eighteen hundred and fifty-one, shall be filed by said corporation within ten days after the organization of the same, and the election of its officers.

Certificate to be filed.

SECT. 4. The capital stock of said corporation shall be

Capital stock,
\$30,000; may
increase to
\$70,000.

thirty thousand dollars, with the privilege of increasing the same to any sum not exceeding seventy thousand dollars; and said corporation may hold real estate not exceeding five thousand dollars in value. [*Approved by the Governor, April 19, 1856.*]

Chap. 121

AN ACT to prevent the evasion of the Laws for the Suppression of Lotteries.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Sections of chap.
132 R. S., to ap-
ply to certain per-
sons.

SECT. 1. The provisions of the first, second and third sections of the one hundred and thirty-second chapter of the Revised Statutes, shall be held to apply to every person who shall dispose of, or offer or attempt to dispose of, any real or personal property, under the pretext of a sale, gift or delivery of any other property, or any right, privilege or thing whatever, with an intent to make the disposal of such real or personal property dependent upon or connected with any chance by lot, dice, numbers, game, hazard, or other gambling device, whereby such chance or device is made an additional inducement to the disposal or sale of said property.

Property liable to
forfeiture to Com-
monwealth.

SECT. 2. All such property so disposed of, or offered to be disposed of, shall be liable to forfeiture to the Commonwealth, under the provisions of the eighth section of the same chapter. [*Approved by the Governor, April 19, 1856.*]

Chap. 122

AN ACT establishing a Probate Court in North Bridgewater, in the County of Plymouth, and changing the time of holding the Probate Court at Middleborough, in said County.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Probate court es-
tablished.

Time for holding
court changed.

SECT. 1. There shall be a probate court held every year on the last Tuesday in July, at North Bridgewater, in the county of Plymouth; and the probate court by law heretofore holden at Middleborough, in said county, on the first Tuesday of November, shall hereafter be holden at said Middleborough on the last Tuesday of October, in every year.

Inconsistent acts
repealed.

SECT. 2. All acts or parts of acts, inconsistent with this act, are hereby repealed.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, April 19, 1856.*]

AN ACT to punish Frauds in Officers of Corporations, and other persons. *Chap. 123*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Any officer, agent, clerk or servant, of any corporation or any other person, who shall issue, or sign, with intent to issue, any certificate of stock in any corporation, beyond the amount authorized by law, or limited by the legal votes of such corporation or its proper officers, or shall negotiate, transfer or dispose of, such certificate, with intent to defraud, shall be punished by imprisonment in the State prison for a term not exceeding ten years, or in the house of correction for a term not exceeding one year.

Punishment for issuing certificates of stock beyond limit by law;

SECT. 2. Any officer, agent, clerk or servant, of any corporation, or any other person, who shall fraudulently issue or transfer any certificate of the stock of any corporation to any person not entitled thereto, or shall fraudulently sign such certificate, in blank or otherwise, with the intent that it shall be so issued or transferred, by himself or any other person, shall be punished by imprisonment in the State prison for a term not exceeding ten years, or in the house of correction for a term not exceeding one year.

for fraudulently issuing or transferring certificates of stock, &c.;

SECT. 3. Any officer, agent, clerk or servant, of any corporation, who shall make any false entry in the books thereof, with intent to defraud, and any person whose duty it shall be to make in such books a record or entry of the transfer of stock, or of the issuing or cancelling of certificates thereof, or of the amount of stock issued by such corporation, who shall omit to make a true record or entry thereof, with intent to defraud, shall be punished by imprisonment in the State prison for a term not exceeding ten years, or in the house of correction for a term not exceeding one year.

for making false entries, &c.

SECT. 4. On the trial of any person for any offence under this act, the books of any corporation, to which such person had access, or the right of access, shall be admissible in evidence.

Books of corporation admitted in evidence.

SECT. 5. Nothing in this act contained shall be construed to affect any civil rights or liabilities growing out of any act or omission for which punishment is herein provided.

Civil rights, &c., not affected.

SECT. 6. This act shall take effect from and after its passage. [*Approved by the Governor, April 19, 1856.*]

Chap. 124 AN ACT in relation to a Burying-Ground in the Town of West Roxbury.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Selectmen to define limits of burying-ground, and appoint undertakers.

SECT. 1. That the selectmen of the town of West Roxbury be, and they hereby are, authorized and empowered to prescribe the limits, and to define what shall be the boundaries within which the dead shall be interred on the land owned by the Reverend Patrick O'Beirne, upon which land said O'Beirne was authorized to establish a burying-ground by the city of Roxbury, in the year of our Lord one thousand eight hundred and forty-nine ; and the said selectmen, after establishing said limits, are authorized to appoint undertakers for said burying-ground : and the said burying-ground shall be under the same laws, regulations, restrictions and limitations, as apply to other burying-grounds in this Commonwealth.

Authorized to lay out highway.

SECT. 2. The county commissioners for the county of Norfolk, or the selectmen of the town of West Roxbury, are hereby authorized and empowered to lay out a highway across the land above described, of the said O'Beirne, agreeably to the plan of said highway, described in a plan drawn by William A. Garbett, under date of May twenty-fifth, eighteen hundred and fifty-five, if they shall judge public convenience requires said highway, upon awarding to said O'Beirne such damages as they who lay out said highway may adjudge to be reasonable, the award to be subject to the same appeal as is authorized in other awards for land damages.

Appeal.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, April 19, 1856.*]

Chap. 125

AN ACT relating to Lists of Jurors.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Lists of jurors to be revised and posted.

SECT. 1. The lists of jurors, required by law, shall be carefully prepared and revised once in each year, and posted up in public places, in the town or city, by the selectmen, or the mayor and aldermen of the several towns or cities for which they are prepared, ten days, at least, before they are to be submitted for revision and acceptance.

Common councils to exercise same power as towns.

SECT. 2. The lists of jurors, now required to be prepared by the mayor and aldermen of cities, shall be submitted to their respective common councils, which councils shall exer-

cise the same power to revise and accept them, that is exercised by towns.

SECT. 3. The one hundred and sixty-seventh chapter of the statutes of the year one thousand eight hundred and fifty-five, is hereby repealed. Act repealed.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, April 21, 1856.*]

AN ACT in addition to an Act to incorporate the Bank of Mutual Redemption. *Chap. 126*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The act to which this is in addition, is hereby amended, as follows: The purpose for which said bank is incorporated, is for redeeming the bills of New England banks. The stock of said bank shall be subscribed and held only by the banks in the New England States; and the several banks in this State are authorized to subscribe to said stock by a vote of their directors: *provided*, that no bank shall be authorized to subscribe to said capital stock to an amount exceeding five per cent. of the capital of said bank actually paid in, nor exceeding the sum of twenty thousand dollars. Act amended. Subscriptions to capital stock. Proviso.

SECT. 2. Whenever five hundred thousand dollars shall have been subscribed as aforesaid, said bank may proceed to organize: *provided*, it shall not commence business until the sum of one million dollars shall have been subscribed, and one-half of the amount paid in. When to organize. Proviso.

SECT. 3. Any stockholder in any bank which is the owner of stock in said bank of Mutual Redemption, shall be eligible as a director: *provided*, that at least three-fourths of the directors shall be inhabitants of this State, and all of them inhabitants of the New England States. Eligibility of directors. Proviso.

SECT. 4. Said bank shall not issue bills of less denomination than five dollars, and shall be subject to the same restrictions, and entitled to the same privileges, except as is provided in the act to incorporate the bank of Mutual Redemption, and in this additional act, as the banks in this Commonwealth. Issue of bills.

SECT. 5. No individual shall, at any time, be debtor to said bank to an amount exceeding sixty thousand dollars. Debtors limited.

SECT. 6. The amount of circulation shall never exceed, for more than three consecutive days, three times the amount of specie held by said bank. Circulation.

SECT. 7. Said bank shall always show in its weekly Weekly returns

to show 10 per cent. paid in, &c.

return, at least ten per cent. of its capital stock paid in, in current gold or silver coin: and it shall be the duty of the bank commissioners, should said bank violate this provision, to apply to the nearest judge of the supreme judicial court, for an injunction on said bank.

Inconsistent provisions repealed.

SECT. 8. Such parts of the provisions of the act to which this is in addition, as are inconsistent herewith, are hereby repealed.

SECT. 9. This act shall take effect on and after its passage. [*Approved by the Governor, April 24, 1856.*]

Chap. 127

AN ACT to authorize the Boston and Lowell Railroad Corporation to establish an additional Branch Track of their Railroad, in the City of Lowell.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Branch track in Lowell.

SECT. 1. The Boston and Lowell Railroad Corporation are hereby authorized and empowered to locate, construct and maintain, a branch of their railroad, not exceeding twenty feet in width, in the city of Lowell, as follows:—

Boundaries.

Beginning on the main track of their railroad on Dutton Street, at a point northerly of the bridge over the Merrimack Canal, so called, at the intersection of Market Street with said Dutton Street, and thence running and curving to the right, across the said canal, into and across the "Grove Lot," so called, to Shattuck Street: thence across said Shattuck Street at right angles, or nearly so, into a passage-way or alley, between Market and Middle Streets; thence down said alley to the end thereof, and thence in the same direction to the east side of a cross alley-way, in rear of the building erected by Amos B. French, on land of Jonathan Tyler.

Freight.

SECT. 2. Said corporation shall not charge for freight between other railroads and said branch, higher rates than they shall charge for freight of the various manufacturing companies between such other railroads and existing branch railroads in Lowell, owned by said Boston and Lowell Railroad Corporation; and other railroad corporations, whose railroads terminate in Lowell, shall have all reasonable and proper facilities and dispatch, in the use of said branch hereby authorized.

Subject to general laws, &c.

SECT. 3. Said corporation shall, with respect to the branch hereby authorized, be subject to all the duties, liabilities and restrictions, and have all the powers and privileges, provided in the thirty-ninth chapter of the Revised Statutes, and in all general laws which are now, or may be hereafter, in

force, relating to railroad corporations in this Commonwealth.

SECT. 4. The motive power used by the said corporation, upon the aforesaid branch, and the rate of speed thereon, may be regulated and controlled by any ordinance of the city of Lowell: *provided*, that in no case shall steam be used as a motive power upon said branch. And the mayor and aldermen of said city of Lowell may have and exercise, in respect to the said branch, all the powers given to county commissioners, by the two hundred and seventy-first chapter of the statutes of the year eighteen hundred and forty-six, and by the three hundred and fiftieth chapter of the statutes of the year eighteen hundred and fifty-five.

Motive power and speed.

SECT. 5. Any bridge or other structure which the said corporation may erect over said Merrimack Canal, for said branch track, shall be so erected and constructed, as not to obstruct or impede the flow of the waters in and along said canal.

Waters of canal not to be obstructed.

SECT. 6. This act shall take effect from and after its passage. [*Approved by the Governor, April 24, 1856.*]

AN ACT to incorporate certain persons by the name of the Margaret Coffin Prayer Book Society. *Chap. 128*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. That E. M. P. Wells, Annie S. Robbins, and Elmira Tarbell and their associates, be, and they hereby are, made a body politic and corporate, under the name of the Margaret Coffin Prayer Book Society, for the purpose of procuring, circulating, and distributing the book of common prayer, according to the use of the Protestant Episcopal Church in the United States of America, to such extent and in such edition or editions thereof as they may cause to be printed on their account, or may otherwise lawfully procure; and such distribution may be gratuitous or at such price or prices as in each case said corporation may, under its by-laws, or by its officers, order and prescribe; and said corporation shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes: and for the purposes aforesaid, the said corporation shall be, and it hereby is, authorized to make purchases, and to receive gifts, grants, bequests or devises of real and personal estate, and to hold the same for the purposes aforesaid: *provided*,

Corporators.

Purpose.

Privileges, restrictions, &c.

May hold real and personal estate.

Proviso.

that the income of the real estate so granted or devised, together with the interest of the personal estate, shall not exceed the sum of five thousand dollars; with full liberty and power to manage and dispose of or convey the same, and to change the investment of the same from time to time, as to said corporation shall appear fit.

Annual meetings. SECT. 2. The said corporation shall hold its annual meeting at Boston, in the county of Suffolk, at such time in the year as shall by a by-law of the corporation be fixed for that purpose. [*Approved by the Governor, April 24, 1856.*]

Chap. 129 AN ACT in addition to an Act to incorporate the Congregational Society in the Second Precinct in Attleborough.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Investment of funds. SECT. 1. The Congregational Society in the second precinct in Attleborough, are hereby authorized and empowered to invest the funds which now belong to said society, or may hereafter be acquired by them, in the purchase of the pews in the meeting-house in said second precinct: and after the purchase of said pews, to appropriate any balance remaining in their hands, to the repair, alteration and improvement of said meeting-house, or to the rebuilding of the same, whenever it shall be deemed necessary by said society: *provided, however,* that the said pews, so purchased, shall be rented at public auction or otherwise, and the income and proceeds thereof shall be appropriated to the support of a congregational minister in said parish, according to the intent and provisions of the act to which this is an addition.

Surplus, how appropriated. SECT. 2. Any surplus arising from the rents of said pews, after paying the stated salary of such minister aforesaid, shall be annually paid over, and returned to the trustees of said society, and by them received and put to interest, agreeably to the provisions of said act of incorporation, and shall be suffered to accumulate till the same shall amount to the sum of four thousand dollars; after which time the said society may appropriate the interest, or annual income thereof, or any part of the same, to the encouragement and improvement of church music, and to the payment of any incidental expenses of supporting public worship in said parish.

Real estate not to exceed \$20,000. SECT. 3. Said society shall be capable, in law, to purchase, hold and dispose of a meeting-house in said parish, and land on which the same may stand, and also a parsonage for the use of the ministry, and other real estate, not

exceeding, in the whole, the value of twenty thousand dollars.

SECT. 4. The conveyance of the present meeting-house and lot on which the same stands, heretofore made to said society, and the purchase by said society of any pews in said house, are hereby confirmed and made valid in law. Former proceedings valid.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, April 24, 1856.*]

AN ACT in relation to Appeals in Criminal Cases.

Chap. 130

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Police courts and justices of the peace shall have the same authority to bind by recognizance, witnesses in criminal cases, in which an appeal is taken, as is now vested in them when a prisoner is admitted to bail, or committed by the provisions of the one hundred and thirty-fifth chapter of the Revised Statutes. Recognizance of witnesses.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 24, 1856.*]

AN ACT to authorize the Congregational Library Association, of Boston, to hold additional Real and Personal Estate.

Chap. 131

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Congregational Library Association, of Boston, is hereby authorized to hold real and personal estate to the amount of one hundred and fifty thousand dollars, in addition to the amount that said corporation is now authorized by law to hold: *provided*, that no part of said amount shall be invested in real estate, except in the purchase of a suitable site, and the erection or preparation of a suitable building, to be used for the purposes of said corporation, as set forth in the act of incorporation, passed April twelfth, in the year eighteen hundred and fifty-four. Additional real and personal estate. Provision.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 24, 1856.*]

Chap. 132 AN ACT to set off a part of the Town of Braintree and annex the same to the Town of Quincy.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same. as follows :

Description of territory set off.

SECT. 1. So much of the town of Braintree, in the county of Norfolk, as lies northerly of a line, beginning at the present town bound, between the towns of Braintree and Quincy, in the channel on Fore River; thence following the channel to the mouth of Hayward's Creek; thence following in the centre of said creek to the centre of the bridge at the turnpike; thence following the creek to the culvert at Howard Street, being two hundred and seventy-one rods, more or less; thence west, three degrees south, three hundred fifty-six rods, to a stone bound on Washington Street, between the said towns of Braintree and Quincy, with all the inhabitants and estates thereon, is hereby set off from the town of Braintree and annexed to the town of Quincy: *provided, however,* that for the purpose of electing representatives to the general court, to which the said town of Braintree is entitled, until the next decennial census shall be taken, in pursuance of the thirteenth article of amendment to the constitution, the said territory shall remain and continue to be a part of the town of Braintree; and the inhabitants resident therein shall be entitled to vote in the choice of such representatives, and shall be eligible to the office of representative in the town of Braintree, in the same manner as if this act had not been passed.

Unaltered as to representatives.

Taxes.

SECT. 2. The said inhabitants and estates so set off shall be liable to pay all taxes, that have been legally assessed on them by the town of Braintree, in the same manner as if this act had not been passed: and until the next general valuation of estates in this Commonwealth, the town of Quincy shall annually pay over to the said town of Braintree the proportion of any state or county tax, which the said town of Braintree may have to pay upon the inhabitants or estates hereby set off.

To pay proportion of town debt.

SECT. 3. The said inhabitants and estates so set off shall be liable to pay their proportion of the existing town debt of the town of Braintree, according to the amount thereof at the time of the passage of this act; the same to be assessed upon said inhabitants and estates in accordance with the last general valuation of estates in this Commonwealth: *provided, however,* that the same when assessed shall be collected by said town of Braintree, in three equal annual instalments, in the years eighteen hundred fifty-six, eighteen

Proviso.

hundred fifty-seven and eighteen hundred fifty-eight : and in order to fix the amount of said town debt, the selectmen of Braintree shall, on or before the first day of May next, take the amount due and owing by said town of Braintree, and deduct therefrom all sums of money, and notes and bills receivable, considered good, held by said town, and the balance left shall be the amount of said debt, which shall, on or before said first of May next, be certified and sworn to by said selectmen, and filed with the town treasurer of said town of Braintree.

SECT. 4. If any persons who have heretofore gained a legal settlement in the town of Braintree, by reason of a residence on the territory set off as aforesaid, or by having been proprietors thereof, or who may derive such settlement from any such resident or proprietor, shall stand in need of relief or support, as paupers, they shall be relieved and supported by the said town of Quincy in the same manner as if they had gained a legal settlement in that town. Support of paupers.

SECT. 5. The selectmen of the town of Quincy shall, annually, until the next decennial census, fourteen days at least before the Tuesday next after the first Monday of November, furnish to the selectmen of Braintree, a correct list, so far as may be ascertained from the records of the town of Quincy, or any of its officers, of all persons resident on the territory hereby set off, who shall be entitled to vote for representatives as aforesaid, in Braintree. Quincy to furnish list of voters.

SECT. 6. This act shall take effect from and after its passage. [*Approved by the Governor, April 24, 1856.*]

AN ACT concerning the Boston and Chelsea Railroad Company.

Chap. 133

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The four hundred and forty-fifth chapter of the acts of eighteen hundred and fifty-four, is hereby so amended, that the time fixed by the twelfth section thereof, shall be extended to one year from the passage of this act. [*Approved by the Governor, April 28, 1856.*] Act amended.

Chap. 134 AN ACT establishing a new Boundary Line between Salem and South Danvers.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Boundary line established.

SECT. 1. The dividing line between the city of Salem and the town of South Danvers is hereby established and declared to be as follows, to wit:—Beginning at a point on the line between Danvers and South Danvers one hundred rods from the bound stone at Peters' Point, thence southerly in a straight line to a point on the southerly side of the Topsfield Road in a line with the north-westerly side of the house, now or formerly occupied by William Phelan ; thence on the southerly side of said Topsfield Road to the easterly corner of Highland Street ; thence on the easterly side of Highland Street to Tremont Street ; thence by the northerly side of Tremont Street to a point opposite the north-westerly corner of Harmony Grove Cemetery ; thence by said cemetery to the bound stone near the south-westerly corner thereof ; thence by the creek to a point in a line with the easterly side of the old burial ground ; thence by said line and the burial ground to a point twelve feet easterly of the south-westerly corner of said burial ground ; thence south twenty-four and one-half degrees west, fifty-two rods fifteen links ; thence south-westerly in a straight line to a point in the line between Salem and Lynn where said line strikes the south-westerly side of Spring Pond, and all the inhabitants and estates on the territory east and south of said line are hereby set off from the town of South Danvers and annexed to the city of Salem, and all the inhabitants and estates north and west of said line are hereby set off from the city of Salem and annexed to the town of South Danvers: *provided*, that the inhabitants and land thus set off shall be holden to pay all taxes heretofore assessed, in the same manner as if this act had not been passed ; and *provided, further*, that the inhabitants hereby set off from Salem, shall continue to be a part of Salem, and the inhabitants hereby set off from South Danvers, shall continue to be a part of South Danvers, for the purpose of electing state officers, senators and representatives to the general court, representatives to congress, and electors of president and vice-president of the United States, until the next decennial census shall be taken, or until another apportionment of representatives to the general court shall be made.

Concerning taxes.

Provision for choice of State and Federal officers.

Privileges to Peabody Institute.

SECT. 2. The inhabitants residing in that portion of the territory of South Danvers which is set off to Salem, shall

be entitled to all the privileges of the Peabody Institute, in South Danvers, in the same manner as if this act had not passed.

SECT. 3. The city of Salem and the town of South Danvers shall be liable, respectively, for the support of all persons who now do, or may hereafter, stand in need of relief as paupers, whose settlement was gained by, or derived from, a settlement gained or derived within the limits of those portions of territory, which by this act are set off to said city and town. Support of paupers.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, April 30, 1856.*]

AN ACT in addition to an Act entitled, "An Act for the removal of Insane Convicts from the State Prison." *Chap. 135*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The commission for the examination of convicts in the State prison, alleged to be insane, provided for in the one hundred and twentieth chapter of the acts of eighteen hundred and forty-four, shall consist of the physician of the State prison, together with the superintendents, for the time being, of the State lunatic hospitals. Commission for examining insane convicts.

SECT. 2. So much of the one hundred and twentieth chapter of the acts of eighteen hundred and forty-four, before mentioned, to which this act is in addition, and all other acts and parts of acts, inconsistent herewith, are hereby repealed. Inconsistent acts repealed.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, April 30, 1856.*]

AN ACT in relation to ordering a Stay or Supersedeas of Executions. *Chap. 136*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Whenever, after the rendition of judgment in a civil action, the defendant shall petition for a stay or supersedeas of the execution, before the ordering of said stay or supersedeas, the petitioner shall give security to the satisfaction of the court, with condition that he will pay the amount of said judgment and interest thereon, unless it appears on the final judgment, in an action of review, that a less amount is due than that for which the original judgment was rendered; and in that case, he shall pay the amount found due on said final judgment. [*Approved by the Governor, April 30, 1856.*]

Defendants petitioning for a stay of execution, to give security, &c.

Chap. 137 AN ACT altering the Boundary Line between the Towns of Cambridge and Somerville, and annexing portions of each to the other.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Boundary line defined.

SECT. 1. The dividing line between the towns of Cambridge and Somerville shall hereafter be as follows:—Beginning in Milk Row, (so called,) at a point, being twenty feet and eight inches distant from the point on Milk Row, where the land of Anna Humewell is divided from the land of Benjamin Rand, and thence running in a north-easterly direction, along the boundary line of said estates, there measuring from Milk Row two hundred and twenty-two feet and four inches, then turning at a right angle and running north-westwardly along the west side of a court until it strikes Cottage Street, (so called,) there measuring two hundred and ninety-six feet and six inches, then turning and running along the southerly side of said Cottage Street, in a direction north of west, until it reaches Elm Street, (so called,) there measuring three hundred and eight feet, until it intersects, on the westerly side of Elm Street, the line heretofore established between the said towns.

Northerly side annexed to Cambridge.

SECT. 2. All the territory and persons which are situated on the northerly side of the above described line, are hereby set off from the said Somerville, and are annexed to said Cambridge; and all the territory and persons which are situated on the southerly side of the above described line, are hereby set off from said Cambridge and annexed to said Somerville.

Southerly side annexed to Somerville.

Taxes.

SECT. 3. All taxes heretofore assessed upon the said territories, and upon the persons resident thereon, shall be collected in the same manner as if this act had not been passed. [*Approved by the Governor, April 30, 1856.*]

Chap. 138

AN ACT concerning the Fitchburg Railroad Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Time for filing locations extended one year.

SECT. 1. That the time fixed for filing the location of the railroad of the Fitchburg Railroad Company, and its branches, agreeable to the act authorizing the same, which act was approved by the governor the twenty-seventh day of April, in the year one thousand eight hundred and fifty-five, is hereby extended one year beyond the first day of April, in the year one thousand eight hundred and fifty-six.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 30, 1856.*]

AN ACT in addition to an Act to establish the Dorchester and Milton Extension Railroad. *Chap. 139*

Be it enacted by the Senate, and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The time within which the Dorchester and Milton Extension Railroad Company is required to file the location of its road, is hereby extended to the twenty-ninth day of April, eighteen hundred and fifty-seven. [*Approved by the Governor, April 30, 1856.*]

Time for filing location extended one year.

AN ACT to incorporate the Ladies' Charitable Association, at Haverhill. *Chap. 140*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Ellen P. Minot, Sarah F. Gould, Sarah N. Smiley, Emeline Bradley, Sarah Palmer, their associates and successors, are hereby made a corporation by the name of the Ladies' Charitable Association, at Haverhill, for the purpose of taking, holding, investing and distributing, such funds as they now have, or may hereafter be given them, for the charitable and benevolent objects of their association; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.
Name.
Purpose.
Privileges, restrictions, &c.

SECT. 2. Said corporation shall have power to establish such rules and regulations, for the management of their association, as a majority of the members may, from time to time, determine to be expedient and proper.

Rules. &c.

SECT. 3. The funds of this association shall not, at any time, exceed twenty-five thousand dollars.

Funds not to exceed \$25,000.

SECT. 4. This act shall take effect on and after its passage. [*Approved by the Governor, April 30, 1856.*]

AN ACT to reannex Chelsea to Boston. *Chap. 141*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. All that territory now comprised within the limits of the town of Chelsea, in the county of Suffolk, with all the inhabitants and estates therein, is hereby reannexed to the city of Boston, in said county, and shall hereafter be

Annexation.

considered and deemed to be a part of the city of Boston, except only as hereinafter provided.

Territory transferred to continue a representative district.

SECT. 2. The territory hereby transferred, with the inhabitants residing therein, shall continue to constitute a fixed representative district for the election of representatives to the general court, and, for the purpose of sending representatives, shall continue to be a corporation; and for this purpose and the purposes necessary therefor, but for none other, preserve and retain its corporate existence. An annual meeting of the inhabitants of said territory shall be held in March or April, at which shall be chosen a town clerk and three selectmen, but no other officers. It shall be the duty of the selectmen, so chosen, to call the annual meetings, and also all meetings for the election of town representatives, to decide on the qualifications of voters at such meetings, to receive the return of the votes cast, to certify the result, and to discharge all other duties respecting such annual meetings, and respecting the election of town representatives, in the same manner, and to the same extent, as selectmen of other towns now do. The warrants for all meetings, called in pursuance of this section, shall be signed by the selectmen, or a majority of them, and directed to some person or persons appointed by them for that purpose, who shall forthwith notify such meeting, by posting the same, or copies thereof, in twenty of the most public places in said town, at least fifteen days before the time of such election; and in case of the neglect, refusal or inability of the selectmen to call any of the said meetings, any justice of the peace of the county, may, upon application to him in writing, by ten or more of the legal voters of said town, call such meetings, by a warrant under his hand, directed to one or more persons, who shall notify such meetings by posting the same, or copies thereof, in the same manner as is provided in this section for warrants issued by the selectmen; and the justice who shall have issued the warrant, shall preside at the meeting so called, and discharge all the duties, which the selectmen might have performed. At all meetings for the election of representatives, the qualified voters present, or a majority of them, may consider and decide whether they will choose representatives or not, and what number they will send. If by reason of the neglect to choose and return members to the house of representatives, agreeably to the constitution, the said house shall impose a fine on said town or its inhabitants, the fine so imposed shall be assessed upon, and paid by, said town or its inhabitants, and the selectmen are hereby authorized to assess and collect said

Annual meetings.

Warrants.

Fine for non-election of representatives.

fine. It shall be the duty of the selectmen, prior to every annual meeting, and to every meeting for the election of representatives, to make out and post lists of all the inhabitants of said town, qualified to vote at such meetings, in the manner in which selectmen and assessors are required to make out similar lists of voters; and for that purpose, they shall have free access to the assessors' books and lists, and be entitled to the aid and assistance of the assessors, assistant-assessors and other officers of the said city of Boston. It shall be the duty of the town clerk to record the votes passed at the meeting at which he shall have been elected, and at the meetings for the election of representatives, and at any annual meeting; but he shall discharge no other duties unless the same shall be necessary to carry out the provisions of this act. Whenever there shall be a vacancy in the office of town clerk, or the said clerk shall not be present, the selectmen shall call upon the qualified voters present to elect a town clerk, *pro tempore*. All the duties of a town clerk, other than those above enumerated, shall be performed by the city clerk of the city of Boston.

Selectmen to post lists.

Duty of town clerk.

SECT. 3. The territory, hereby transferred, shall form a separate and additional ward of said city, and shall so remain until the next alteration of ward limits, by the said city council, according to law; and the ward so established shall be entitled to the same number of councilmen, school committee-men, overseers of the poor, assistant-assessors, ward officers and all other officers not herein mentioned, as the other wards of the said city are now respectively entitled to.

Additional ward of Boston.

SECT. 4. The territory, so transferred, and the inhabitants therein, and their estates, shall be liable for all taxes already assessed and not paid, and also all city, county and state taxes, that may hereafter be assessed on them by said town of Chelsea, before the first day of November next, in the same manner as they would have been liable if this act had not been passed.

Taxes.

SECT. 5. All the public property of the said town of Chelsea shall become, and is hereby declared to be, the property of the city of Boston; and the town treasurer of Chelsea shall, under the direction of the selectmen of said town, transfer, deliver, pay over and account for, to the city treasurer of Boston, all books, papers, moneys, and other property in his possession as treasurer, on the first day of November next; and the city of Boston shall thereafter be liable for the public debt of Chelsea.

Public property transferred.

SECT. 6. This act shall be void, unless the inhabitants of the city of Boston, and town of Chelsea, respectively, quali-

Act to be void, unless, &c.

fied to vote in city or town affairs, shall accept the same, at a meeting to be called for that purpose within six months after its passage. And it shall be the duty of the board of aldermen of said city, and of the selectmen of said town, respectively, to warn meetings for said purpose, within the period aforesaid, upon the requisition of fifty qualified voters of their said city and town, respectively; and the said meetings shall be held within thirty days after such requisition, and the meetings in said city may be either general or ward meetings; and if, upon the return of the votes cast at such meetings, it shall appear that a majority of said votes in said city and town, respectively, are in favor of the acceptance of this act, then it shall be the duty of the mayor and aldermen of said city, and the selectmen of said town, to forthwith certify said returns to the secretary of the Commonwealth, who, if the mayor and aldermen of said city, and the selectmen of said town, shall have certified to him in the manner aforesaid, shall, on the first day of November next, issue and publish his certificate, declaring this act to have been accepted according to law. [*Approved by the Governor, April 30, 1856.*]

Chap. 142 AN ACT relative to the House of Correction and Jail in the County of Plymouth.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

House of correction and jail one establishment.

SECT. 1. The house of correction and jail in the county of Plymouth, shall be considered one establishment, and taken to be within the meaning of section first of the eleventh chapter of the acts of eighteen hundred and forty-six.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 30, 1856.*]

Chap. 143 AN ACT changing the Line between the Towns of Uxbridge and Northbridge.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Boundary line established.

SECT. 1. That the following described line shall hereafter be a part of the dividing line between the towns of Uxbridge and Northbridge, to wit:—Beginning at a stone monument, at the point where the lines between the towns of Uxbridge, Northbridge and Sutton meet; thence south, sixty and one-third degrees east, about five hundred and fourteen rods, to the southerly line of said Northbridge;

and all of that part of said Uxbridge, which lies northerly of said line, with the inhabitants thereon, shall hereafter belong to said Northbridge; and all of that part of said Northbridge, which lies southerly of said line, with the inhabitants thereon, shall hereafter belong to said Uxbridge.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, April 30, 1856.*]

AN ACT to incorporate the Chebacco Library Association.

Chap. 144

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. John Prince, Oliver H. P. Sargent, Samuel P. Haskell, Andrew Howes, Charles Howes, Nathan Burnham, 4th, Moses S. Andrews, Norman Story, John Howe Burnham, Aaron Low and Webster Howes, their associates and successors, are hereby made a corporation, by the name of the Chebacco Library Association, to be established in the town of Essex, for the purpose of instituting and sustaining a library and reading-room, and promoting public instruction by lectures, or otherwise; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators

Name.

Purpose.

Privileges, restrictions, &c.

SECT. 2. The said corporation may hold real and personal estate, for the purposes aforesaid, to an amount not exceeding ten thousand dollars.

Real and personal estate, \$10,000

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 1, 1856.*]

AN ACT to incorporate the Eliot City Mission Society, of Roxbury.

Chap. 145

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Henry Hill, A. C. Thompson, Alvah Kittredge, William W. Davenport, Benjamin Perkins, Hamilton A. Hill, E. B. Huntington and Oliver L. Gridley, their associates and successors, are hereby made a corporation by the name of the Eliot City Mission Society, in the city of Roxbury; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators

Name.

Privileges, restrictions, &c.

SECT. 2. Said corporation may hold real and personal estate to an amount not exceeding ten thousand dollars, for

Real and personal estate, \$10,000.

charitable purposes, and the promotion of religion and morality.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 1, 1856.*]

Chap. 146 AN ACT to incorporate the American Hotel Company, in the North Village, in Adams.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators. SECT. 1. A. W. Richardson, Joel Bacon, J. Q. Robinson, 2d, their associates and successors, are hereby made a corporation, under the name of the American Hotel Company, for the purpose of erecting a hotel in the North Village, in the town of Adams, and maintaining such public house, and the improvements connected therewith; and for these purposes, shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes: provided, that said corporation shall not carry on the business of hotel-keeping, or be in any way interested in such business.

Real and personal estate, \$50,000. SECT. 2. The whole amount of real and personal estate or capital stock, which said corporation may hold, for the purposes aforesaid, shall not exceed fifty thousand dollars in value. [*Approved by the Governor, May 1, 1856.*]

Chap. 147 AN ACT in relation to the Assessment of Taxes in the City of Lynn, in the years one thousand eight hundred and fifty-three, and one thousand eight hundred and fifty-four.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Assessment of taxes legalized. SECT. 1. The assessments of taxes, made by the assessors of taxes of the city of Lynn, for the years eighteen hundred and fifty-three and eighteen hundred and fifty-four, are hereby confirmed, and the taxes, as assessed by said assessors for those years, are declared and made legal and valid.

No suits to be sustained. SECT. 2. No suit at law, or in equity, hereafter commenced, so far as the cause thereof accrues from any irregularity or defect in the assessments of taxes for the years eighteen hundred and fifty-three and eighteen hundred and fifty-four, in and for said city of Lynn, shall be sustained, and this act may be shown in bar of any such suit, so far as the cause thereof accrues from any such irregularity or defect.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 1, 1856.*]

AN ACT to aid in the establishment of an Agricultural Department in Westfield Academy. *Chap. 148*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The inhabitants of the town of Westfield, in town meeting assembled, and duly notified by warrant for that purpose, calling such meeting, are hereby authorized to vote and appropriate a sum of money not exceeding five thousand dollars, to be applied by the trustees of Westfield Academy, in the establishment of an agricultural department to be connected with said academy, upon such terms and conditions as may be expressed in said vote ; and they may issue bonds of said town, bearing an annual interest not exceeding six per cent., and payable at a period not exceeding twenty years from the vote of the same, to be signed by the treasurer of said town, and countersigned by the chairman of the selectmen, which bonds shall be legally chargeable upon said inhabitants for the payment thereof.

\$5,000 for agricultural department.

May issue bonds.

SECT. 2. Admission to said agricultural department shall be free to the inhabitants of said town upon such conditions as may be determined by a board of examiners, to be composed of the school committee of said town, and an equal number of the trustees of said academy.

Membership.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 1, 1856.*]

AN ACT to Legalize the Assessment of Taxes in the Town of Stoughton, for the year eighteen hundred and fifty-four. *Chap. 149*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The assessments of taxes, made by the assessors of taxes in the town of Stoughton, for the year one thousand eight hundred and fifty-four, are hereby confirmed and made valid and legal, notwithstanding any irregularity on the part of the assessors, in omitting to make oath to their certificate, upon the assessors' book, as by law provided : *provided, nevertheless*, that nothing in this act contained shall be construed to bar, or in any wise affect any suit at law already brought and now pending in any of the courts of this Commonwealth. [*Approved by the Governor, May 3, 1856.*]

Assessment of taxes legalized

Proviso.

Chap. 150 AN ACT relating to the Support of certain Inmates of the State Reform School for Boys, and the State Industrial School for Girls.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Concerning expenses, &c., of persons committed.

SECT. 1. The superintendents and trustees of the Reform School for Boys, and of the State Industrial School for Girls, are hereby authorized to exercise, at their discretion, the power vested in the keepers and overseers of houses of correction in this Commonwealth, in the fifteenth and sixteenth sections of the one hundred and forty-third chapter of the Revised Statutes, in relation to the care and expense of supporting and employing persons committed to their several institutions.

SECT. 2. This act shall take effect on and after its passage. [*Approved by the Governor, May 3, 1856.*]

Chap. 151 AN ACT in relation to the Salary of the Physician and Surgeon of the State Prison.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Salary of physician established.

SECT. 1. From and after the first day of April, in the year one thousand eight hundred and fifty-six, the salary of the physician and surgeon at the State prison shall be five hundred dollars annually, which sum shall be paid in quarterly payments, by the warden, out of the treasury of the prison.

Inconsistent acts repealed

SECT. 2. All acts and parts of acts, inconsistent herewith, are hereby repealed. [*Approved by the Governor, May 3, 1856.*]

Chap. 152 AN ACT concerning the Jurisdiction of Justices of the Peace.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Former act amended.

SECT. 1. The first section of the three hundred and fourteenth chapter of the acts of eighteen hundred and fifty-two, is hereby amended, so that the actions thereby brought within the jurisdiction of justices of the peace and justices of police and justices' courts, may be brought in the county where either of the defendants or trustees, if any, resides, or has his usual place of business: *provided*, that no trustee shall be held to answer to process except in the county where he lives or has his usual place of business.

Proviso.

SECT. 2. All acts and parts of acts, inconsistent herewith, are hereby repealed. Inconsistent acts repealed.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 5, 1856.*]

AN ACT to incorporate the Oxford Hotel Company.

Chap. 153

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. A. G. Underwood, Horace S. DeWitt, James Bacon, their associates and successors, are hereby made a corporation, under the name of the Oxford Hotel Company, for the purpose of erecting a hotel in the town of Oxford, and maintaining such public house and the buildings and improvements connected therewith; and for these purposes shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes: *provided*, that said corporation shall not carry on the business of hotel-keeping, or be in way interested in such business. Corporators
Name.
Purpose.
Privileges, restrictions, &c.
Proviso.

SECT. 2. The whole amount of real and personal estate, or capital stock which said corporation may hold for the purposes aforesaid, shall not exceed thirty thousand dollars. [*Approved by the Governor, May 5, 1856.*] Real and personal estate, \$30,000.

AN ACT to incorporate the Proprietors of Oak Grove Cemetery.

Chap. 154

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Eben H. Stacy, Hermann E. Davidson, Benjamin K. Hough, Frederick Norwood, Epes W. Merchant and Edward Babson, together with such other persons as shall become proprietors of lots in the cemetery hereinafter mentioned, their successors and assigns, are hereby made a corporation, by the name of the proprietors of Oak Grove Cemetery; and said corporation shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes, except as is otherwise provided in this act. Corporators.
Name.
Privileges, restrictions, &c.

SECT. 2. The said corporation may take and hold, by purchase or otherwise, in fee simple, for the purposes hereinafter provided, a tract of land, not exceeding thirty acres, situate at and near a place called Oak Grove, in the town of Gloucester, and may also take and hold personal property, not exceeding in amount twenty thousand dollars, to be May hold thirty acres of land, and personal property not exceeding \$20,000.

applied to objects connected with, and appropriate to, the purpose of said corporation.

Powers of corporation.

SECT. 3. The said corporation shall take and hold the aforesaid land, for a rural cemetery or burial-ground, and for the erection of tombs, cenotaphs, or other monuments, for, or in memory of, the dead; and, for this purpose, shall have power to lay out the same in suitable lots or subdivisions, for family, or other burying places; to plant and embellish the same with trees, shrubbery, and other rural ornaments; to enclose and divide the same with suitable walls or fences; and to construct and annex thereto such suitable buildings, appendages, and other conveniences, as said corporation shall, from time to time, deem expedient.

Deeds of conveyance, &c.

SECT. 4. The said corporation shall have authority to grant and convey to the town of Gloucester, any portion of the land aforesaid, for a public burial-ground, and also, to grant and convey to any person or persons, the sole and exclusive right of burial, and of erecting tombs and cenotaphs, and of ornamenting any designated lot or subdivision, upon such terms and conditions, and subject to such regulations, as said corporation shall prescribe, which right, so granted and conveyed, shall be held for the purposes aforesaid, and for none other, as real estate, by the proprietor or proprietors thereof, and shall not be subject to attachment or execution, or to be applied to the payment of debts by assignment, under any insolvent law.

Exempt from taxation.

SECT. 5. The land aforesaid shall be, and is hereby declared exempted from all public taxes, so long as the same shall remain dedicated to the purposes of a cemetery.

Penalty for wilful destruction, &c.

SECT. 6. Any person who shall wilfully destroy, mutilate, deface, injure or remove any tomb, monument, grave-stone, or other structure placed in the cemetery aforesaid, or any fence, railing or other work erected for the protection or ornament of any tomb, monument, grave-stone, or other structure, aforesaid, or any cemetery lot, or shall wilfully destroy, remove, cut, break or injure any tree, shrub or plant, within the limits of said cemetery; or shall shoot, or discharge any gun or other fire-arms, within the said limits, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace, or other court of competent jurisdiction, shall be punished by a fine not less than five dollars, nor more than one hundred dollars, according to the nature of the offence; and such offender shall also be liable to an action of trespass, to be brought in any court of competent jurisdiction, in the name of said corporation, to pay all damages which shall have been occasioned

Also liable to action for trespass, &c.

by his or her unlawful act or acts; which money, when recovered, shall be applied by the trustees of said corporation, to the reparation and restoration of the property destroyed or injured, as aforesaid; and members of said corporation shall be competent witnesses in such suit.

SECT. 7. The lots in said cemetery which may be granted and conveyed as before provided, shall be indivisible: and upon the decease of any proprietor of a lot, the heirs at law or devisees of such lot, as the case may be, shall be entitled to all the privileges of membership: *provided, however,* that if there be more than one heir at law or devisee of such lot, and they do not agree in writing, and file such agreement with the clerk of said corporation, within six months from the decease of the owner, the board of trustees of said corporation shall designate and enter of record which of said heirs at law or devisees shall represent said lot, and vote in the meetings of said corporation, which designation shall continue in force until said heirs or devisees shall make and file such agreement in manner aforesaid, or until, by reason of death, removal, or other sufficient cause, another designation shall become necessary; and in making such designation the trustees shall, as far as may conveniently be done, give preference to males over females, to proximity of blood, and to priority of age, having due regard, however, to proximity of residence.

SECT. 8. The said corporation may take and hold any grant, donation or bequest of property, in trust, to apply the same, or the income thereof, for the improvement or embellishment of the said cemetery, or of any buildings, structures or fences, erected or to be erected therein, or for the repair, preservation, or renewal of any tomb, monument, grave-stone, fence or railing, or other erection in or around any cemetery lot, according to the terms of such grant, donation or bequest; and the supreme judicial court, or any court having equity jurisdiction, shall have power to compel the execution of such trust.

SECT. 9. This act shall take effect from and after its passage. [*Approved by the Governor, May 5, 1856.*]

AN ACT incorporating the Roxbury Institute.

Chap. 155

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

SECT. 1. James Ritchie, Francis Hilliard, William Whit- ing, their associates and successors, are hereby made a cor-

Purpose.	poration by the name of the Roxbury Institute, for the purpose of promoting moral and intellectual improvement, and communicating public instruction by lectures, a library and reading-room, and otherwise, in the city of Roxbury; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, contained in the forty-fourth chapter of the Revised Statutes.
Privileges, restrictions, &c.	
Real and personal estate, \$100,000.	SECT. 2. Said corporation may hold real and personal estate to the amount of one hundred thousand dollars, to be devoted to the purposes aforesaid. [<i>Approved by the Governor, May 5, 1856.</i>]

Chap. 156

AN ACT to incorporate the Eastern Hampden Agricultural Society.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.	SECT. 1. Alonzo V. Blanchard, J. K. Knox, Alonzo N. Dewey, and Alfred L. Converse, their associates and successors, are hereby made a corporation by the name of the Eastern Hampden Agricultural Society, for the encouragement of agriculture and the mechanic arts, by premiums and other means, in the town of Palmer, in the county of Hampden; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, of other agricultural societies established in this Commonwealth: and they are hereby authorized to admit members from the towns of Palmer, Ludlow, Monson, Brimfield, Wilbraham, Wales and Holland, and the city of Springfield, in the county of Hampden; Belchertown and Ware, in the county of Hampshire, and Warren, in the county of Worcester.
Name.	
Location.	
Privileges, restrictions, &c.	
Membership.	
Entitled to same bounty as other agricultural societies.	SECT. 2. Said society shall be entitled, on the same terms as other incorporated agricultural societies, to receive, annually, out of the treasury of the Commonwealth, such sum as any other incorporated agricultural society may receive, under the provisions of chapter forty-two of the Revised Statutes, notwithstanding the restrictions of section seventh of that chapter. [<i>Approved by the Governor, May 5, 1856.</i>]

Chap. 157

AN ACT concerning the Election of Civil Officers.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Results of elections, how determined.	SECT. 1. In order to determine the result of any election of any civil officer or officers in this Commonwealth,
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the whole number of persons who voted at such election shall first be ascertained by counting the whole number of separate ballots given in, and the person or persons who shall receive the highest number of votes shall be deemed and declared to be elected; and in all returns of elections the whole number of ballots given shall be distinctly stated, but blank pieces of paper shall not be counted as ballots.

SECT. 2. If, at any election where more than one civil officer is to be elected to the same office, any two or more candidates shall receive an equal number of votes, being a plurality, by reason whereof the whole number to be elected cannot be completed, the candidates having such equal number of votes, shall be deemed not to be elected. Same subject.

SECT. 3. All acts or parts of acts, inconsistent herewith, or with the fourteenth article of the amendments to the constitution of Massachusetts, are hereby repealed. Inconsistent acts repealed.
[Approved by the Governor, May 5, 1856.]

AN ACT in addition to an Act to establish the City of Springfield.

Chap. 158

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The standing justice of the police court for the city of Springfield shall be entitled to retain to his own use, out of the moneys received by him in each year for fees, fines and penalties, an amount equal to the sum or sums he may be required by law to pay over in each year to the special justices of said court for services rendered by them: *provided, however,* that when the sum of one hundred and fifty dollars shall have been thus earned in any one year, by either or both of said special justices, the said special justices shall thereafter be paid by the standing justice out of his salary, in full, for their services as such justices, at the rate of four dollars for each day they shall be actually engaged in holding court as such justices. Standing justice to retain a certain amount, &c. Proviso.

SECT. 2. In all criminal cases where fines, forfeitures and costs are not paid to the justice of said court, but are by him taxed, certified and allowed as provided in the twenty-fourth section of the ninety-fourth chapter of the statutes of eighteen hundred and fifty-two, the fees of the justice of said court, so taxed, certified and allowed, shall be received by said justice in the manner now provided for justices of the peace; and the fees so received by said justice shall be by him accounted for and paid over to the treasurer of said city. Fines, &c., how received and paid.

Standing justice
may discharge
from imprison-
ment, &c.

SECT. 3. It shall be lawful for the standing justice of said court, at his discretion, to discharge any person from imprisonment, who shall have been confined under sentence of any court, for three months or more, for non-payment of fines and costs, or either of them, when it shall be made to appear to said justice that such person is unable to pay said fine and costs.

Inconsistent acts
repealed.

SECT. 4. All acts and parts of acts, inconsistent herewith, are hereby repealed.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, May 5, 1856.*]

Chap. 159 AN ACT in addition to an Act to establish a Fire Department in the Town of Lynn.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Act amended.

SECT. 1. The first section of the act passed in the year one thousand eight hundred and thirty-six, to establish a fire department in the town of Lynn, (chapter fifty,) is hereby amended, so that the engineers of the fire department shall be appointed in the month of January in each year hereafter, instead of in the month of April.

Inconsistent acts
repealed.

SECT. 2. All acts or parts of acts, inconsistent herewith, are hereby repealed. [*Approved by the Governor, May 5, 1856.*]

Chap. 160 AN ACT to authorize the County Commissioners of Plymouth to lay out a Highway and construct a Bridge over the Wewantitt River.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Bridge in Ware-
ham.

SECT. 1. The county commissioners of the county of Plymouth, are hereby authorized and empowered to lay out a highway and construct a bridge across the Wewantitt River, in Wareham and Marion, in said county of Plymouth, at or near the location of the old bridge, or between the same and the Narrows below. Said commissioners, in laying out and constructing said road and bridge, shall in all respects proceed as is now provided by law for laying out and constructing highways.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 8, 1856.*]

AN ACT concerning the Boston and Lowell and Salem and Lowell Railroad Companies. *Chap. 161*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Salem and Lowell Railroad Company are hereby authorized to enter upon the Boston and Lowell Railroad, from the Lowell and Lawrence Railroad, at any convenient point of junction in Lowell, and may use so much of the Boston and Lowell Railroad as lies north of the track leading to the Lowell Bleachery, and all the branches of said last named railroad in the city of Lowell; and said Boston and Lowell and Salem and Lowell Railroad Companies are hereby invested with all the rights, powers and privileges, of railroad corporations whose railroads are connected by law. Union of railroads.

SECT. 2. This act shall take effect as soon after the passage thereof as the same shall have been accepted by the Boston and Lowell and Salem and Lowell Railroad Companies, at meetings legally called for the purpose. [*Approved by the Governor, May 8, 1856.*] When to take effect.

AN ACT in relation to Probate Courts in the County of Worcester.

Chap. 162

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The sessions of the probate court, now by law holden at Lancaster, in the county of Worcester, shall, from and after the first day of June next, be holden at Clinton, in said county of Worcester. Sessions changed.

SECT. 2. All acts or parts of acts, inconsistent with this act, are hereby repealed. [*Approved by the Governor, May 13, 1856.*] Inconsistent acts repealed.

AN ACT to repeal chapter two hundred and thirty-eight of the Acts of the year eighteen hundred and thirty-six, being an Act to regulate the Assignment and Distribution of the Property of Insolvent Debtors.

Chap. 163

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The act to regulate the assignment and distribution of the property of insolvent debtors, passed April fifteenth, in the year eighteen hundred and thirty-six, chapter two hundred and thirty-eight of the acts of said year, is hereby repealed. [*Approved by the Governor, May 13, 1856.*] Act repealed.

Chap. 164 AN ACT in relation to the Rights of Children, under Guardianship, to attend the Public Schools.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Rights of children to attend school.

SECT. 1. Minors, who shall be placed under guardianship, upon the decease of their father, either pursuant to the general provisions of law, or by the last will of such father, shall be allowed to attend the public schools of the town or city of which such guardian is an inhabitant.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 13, 1856.*]

Chap. 165 AN ACT in addition to the Acts relating to the Annual Reports of Railroad Corporations.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Railroad returns to contain amount of assets.

SECT. 1. The annual report now by law required to be made by the directors of the several railroad corporations within this Commonwealth, shall hereafter contain the amount of assets or property held by the corporation, in addition to the cost of the road.

Secretary to furnish blanks, &c.

SECT. 2. The secretary of the Commonwealth, shall, in the blank returns hereafter transmitted to the several railroads, provide that the statement required by the first section of this act, shall be placed immediately following that which shows the total cost of the road. He shall also provide that the amount paid for interest shall appear next following, but not included in, the cost of working the road.

Form of abstract, &c.

SECT. 3. The form of the abstract required by the act of eighteen hundred and fifty-one, chapter one hundred and two, is hereby so far amended as that the amount of debt shall follow the amount of capital paid in; the amount of assets, the cost of the road, and the amount paid for interest, the cost of working the road. [*Approved by the Governor, May 13, 1856.*]

Chap. 166 AN ACT to authorize Job T. Wilson to build a Wharf in the City of Fall River.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Wharf in Fall River.

Job T. Wilson is hereby authorized to build and maintain a wharf, extending two hundred feet into Taunton Great River, from land owned by him, (at the village of Steep

Brook,) in the city of Fall River, and to lay vessels at said wharf, and receive wharfage and dockage therefor: *provided*, this act shall in no wise affect the legal rights of any other persons whatsoever. *[Approved by the Governor, May 13, 1856.]*

May receive wharfage, &c. Proviso.

AN ACT to extend the time for the construction of a Branch Railroad into the City of Boston, by the Boston and Lowell Railroad Corporation. *Chap. 167*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The time allowed the Boston and Lowell Railroad Corporation for locating, building and completing a branch railroad into the city of Boston, under the provisions of an act passed on the twenty-fifth day of May, in the year eighteen hundred and fifty-three, entitled "An Act to authorize the Boston and Lowell Railroad Corporation to construct a Branch Railroad into the City of Boston," is hereby extended until the first day of June, in the year eighteen hundred and fifty-seven. *[Approved by the Governor. May 13, 1856.]*

Time for construction, &c., extended to June 1, 1857.

AN ACT to incorporate the Springfield and Farmington Valley Railroad Company. *Chap. 168*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. James M. Blanchard, Edward Southworth, Willis Phelps, Samuel S. Day, Caleb Rice, their associates and successors, are hereby made a corporation, by the name of the Springfield and Farmington Valley Railroad Company; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes, and in that part of the thirty-ninth chapter of said statutes, relating to railroad corporations, and in all general laws, which are now, or may hereafter be, in force, relating to railroads in this Commonwealth.

Corporators.

Name.

Privileges, restrictions, &c.

SECT. 2. Said corporation is hereby authorized and empowered to construct and maintain a railroad, with one or more tracks, from the line of the State of Connecticut, at or near Rising's Notch, so called, in the town of Southwick, at the termination of a railroad incorporated by the State of Connecticut, as the Farmington Valley Railroad, thence running by, or near the village of Feeding Hills, and by Mitteneague, in West Springfield, to some point in Spring-

Location.

May enter upon
Western Railroad

field, at or near the depot of the Western Railroad; or if said corporation shall so elect, to some convenient point on the Western Railroad in West Springfield; with power, by proper turnouts and switches, to enter upon and use said Western Railroad, from said point to their depot in Springfield, according to the provisions of law; and with further power, by agreement with said Western Railroad Corporation, to construct and lay down upon said Western Railroad, one or more additional tracks from the point of junction in West Springfield to their depot in Springfield, and to use the same, and the bridge of said Western Railroad, separately or jointly, with said Western Railroad Corporation, as may be agreed.

Further power,
&c.

Capital stock to
consist of 3,000
shares, of \$100
each.

SECT. 3. The capital stock of said corporation shall consist of not exceeding three thousand shares of one hundred dollars each; and no assessment shall be made thereon to a greater amount in the whole, than one hundred dollars on each share.

Legislature may
reduce toll, &c.

SECT. 4. The legislature may, after five years from the time when said railroad shall be opened for use, from time to time, reduce the rates of toll or profits upon said road; but the same shall not be so reduced without the consent of said company, as that the net profits of said road shall yield less than ten per centum pro annum to the stockholders.

Act to be void if
not located in
two years and
constructed in
three years.

SECT. 5. If the location of said railroad shall not be filed according to law, within two years, or if the said railroad shall not be constructed within three years from the passage of this act, the same shall be void.

May contract
with other rail-
roads, &c.

SECT. 6. Said corporation may contract with the owners of any contiguous railroad or railroads, within this State, or in the State of Connecticut, for the use of the whole or any part of such railroad or railroads, or for running and operating said railroads conjointly, or for the hiring of such contiguous railroad or railroads, or for the leasing of their own road to the owners of such contiguous road or roads.

SECT. 7. This act shall take effect from and after its passage. [Approved by the Governor, May 16, 1856.]

Chap. 169 AN ACT authorizing the release of Dower in behalf of Married Women who are Insane.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Release of dower
of insane married
women.

SECT. 1. Whenever any married woman, who, if she survived her husband, would have a right of dower in his real estate, is, by reason of insanity, incompetent to release such

right, the same may, nevertheless, be effectually released, according to the provisions of this chapter.

SECT. 2. The fact of such insanity shall be ascertained, and thereupon a guardian appointed, by proceedings in the probate court, as in such cases is now provided by law; and the husband, if a suitable person for the trust, may be appointed as such guardian. General proceedings.

SECT. 3. Whenever the husband of such insane woman is desirous of conveying any of his real estate, whether absolutely in fee, or only by way of mortgage, he shall petition the judge of probate, describing the same, asking leave that the dower of his wife therein may be released, and setting forth any facts and reasons why his prayer should be granted; and if, after notice in some newspaper to all persons interested, and hearing thereon, the judge of probate shall be satisfied, under all the circumstances of the case, that such married woman would, if sane, release her right of dower in said real estate, he shall authorize and direct her guardian to make such release by joining in any deed of conveyance, to be made within five years thereafter, either by such husband, or any trustee for him, and whether such deed pass the whole, or only separate parcels or lots of said real estate: *provided, nevertheless*, that such authority shall cease at any time within said five years, as to any release thereafter to be made, whenever the said guardian shall be discharged by the judge of probate, according to law, as no longer necessary. Proceedings when husband is desirous to sell, &c. Proviso.

SECT. 4. If, upon such hearing, the judge of probate shall deem it proper, under all the circumstances of the case, that some portion of the proceeds of such real estate, or of any sum loaned on mortgage thereof, should be reserved for the use of such married woman, he may order that a certain sum, not exceeding thirty-three and one-third per cent. of the net amount of such proceeds, or sum actually to be realized from such sale or mortgage, exclusive of any incumbrance then existing on said estate, shall be set aside, and paid over to such guardian, to be invested and held by him for the benefit of such married woman, in case she shall survive her husband, the income of such sum, nevertheless, to be received and enjoyed by such husband during the life of his wife, or until otherwise ordered by the judge of probate, upon good cause shown to him; and the principal to be his, in case he survives her, and to be paid over to him accordingly. Subsequent proceedings.

SECT. 5. If the husband of any such insane woman shall have conveyed, before the passing of this act, or shall hereafter Trustees in certain conveyances may pass title free &c.

convey, any real estate in trust, without the power of revocation, and in such conveyance there shall be made provision for his wife, which, in the opinion of the judge of probate, to be certified on petition, notice and hearing, as aforesaid, shall be sufficient in lieu of dower therein, the trustee in such conveyance shall be authorized to pass title to such real estate free from all right of dower.

Guardians to join in release of dower in certain cases

SECT. 6. If, in any such conveyance mentioned in the preceding section, of any property, there shall be made provision sufficient, in the opinion of the judge of probate, to be certified as aforesaid, in lieu of dower of such insane woman in all the real estate owned by her husband at the date of the petition, or in any particular portions thereof, her guardian shall be authorized to release her dower in all such real estate, or in such particular portions thereof, by joining in any deed of conveyance of the same.

Proceedings under this act, where to be held.

SECT. 7. All the proceedings contemplated under this act, in the probate court, shall be had in the county where the husband of such insane woman resides, if an inhabitant of this Commonwealth, and if not, then in some one county where any of his real estate is situated; and a certified copy of all final orders or decrees therein, shall be recorded in the registry of deeds in every county where the conveyance of the real estate, dower in which is released under this act, is recorded. [Approved by the Governor, May 16, 1856.]

Orders or decrees to be recorded.

Chap. 170 AN ACT in relation to the Court of Common Pleas in and for the County of Middlesex.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Term of C. C. Pleas established.

SECT. 1. The term of the court of common pleas for the county of Middlesex, now holden at Concord, in said county, on the second Monday of March of each year, shall hereafter be holden at Lowell, in said county, on the second Monday of March annually.

Same.

SECT. 2. The term of said court of common pleas for said county, now holden at Concord, in said county of Middlesex, on the second Monday of June, annually, shall hereafter be holden at said Concord, on the first Monday of June, annually.

When to take effect.

SECT. 3. This act shall take effect on the first Monday of September next. [Approved by the Governor, May 16, 1856.]

AN ACT concerning State Paupers.

Chap. 171

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The board of alien commissioners shall prescribe the form of the certificate required in the fifth section of the two hundred and seventy-fifth chapter of the acts of the year one thousand eight hundred and fifty-two, which certificate shall contain such inquiries in relation to the age, parentage, birthplace, former residence, and other facts relating to the pauper as they may judge necessary, to which the mayor of the city, or the overseers of the poor of the town from which the pauper is sent, shall render true answers as far as they are able, before said pauper shall be received into either of the State almshouses. The several cities and towns shall be furnished with blank forms of said certificate by the secretary of the Commonwealth.

Commissioners to prescribe form of certificate, &c.

Mayor and overseers to render true answers.

Secretary to furnish blank forms.

SECT. 2. In case any person, not having a legal settlement in this Commonwealth, shall fall into distress in any city or town, and cannot be removed, by reason of sickness or other disability, in the opinion of the officers in such city or town who may have such duty to perform, they shall notify the alien commissioners, who shall, if they deem it expedient, request the attending physician of the nearest State almshouse to visit said person; and if, in his opinion, the person cannot be safely or properly removed, then the city or town providing for said pauper shall be entitled to such a sum, not exceeding three dollars per week, for the board and care of said pauper, as the alien commissioners shall deem to be just and right. No city or town shall receive pay for the support of any pauper as aforesaid, for any expense incurred prior to the mailing of said notice.

Provision for persons not having legal settlement.

No expense allowed prior to notice.

SECT. 3. The several cities and towns in the Commonwealth shall have the right, at their own expense, to send to one of the State almshouses, all paupers not having a settlement within the Commonwealth, as directed in the third section of the two hundred and seventy-fifth chapter of the acts of the year eighteen hundred and fifty-two, except as hereinafter provided. The alien commissioners shall have power to direct the mayor of any city, or the overseers of the poor of any town, to send such paupers to either of the State almshouses, as, in their judgment, the interests of the Commonwealth may require: *provided, however*, that if any city or town is required to send their paupers to a greater

Cities and towns may send paupers, under direction of commissioners.

Provido.

distance than is required in the act aforesaid, the necessary additional expense shall be paid by the Commonwealth.

Acts repealed.

SECT. 4. The four hundred and twelfth chapter, and the first and second sections of the four hundred forty-fifth chapter of the acts of the year one thousand eight hundred and fifty-five, and all other acts inconsistent with this act, are hereby repealed.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, May 16, 1856.*]

Chap. 172

AN ACT concerning the Police Court of the City of Worcester.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Salary of clerk.

SECT. 1. The clerk of the police court of the city of Worcester shall receive a sum not exceeding seven hundred dollars per annum, for his services as clerk.

Salary of clerk pro tem.

SECT. 2. In case of the sickness or absence of the standing clerk, the clerk *pro tempore*, appointed by the justice of said police court, shall be allowed and paid a *pro rata* compensation for his services.

Duty of clerk.

SECT. 3. It shall be the duty of the clerk to attend every court held by the justices of the police court, or either of them, and to record all proceedings therein had, and to make out all warrants and processes which the said justices, or either of them, may order.

Partial repeal.

SECT. 4. So much of the fourth section of the act passed in the year one thousand eight hundred and fifty-one, chapter two hundred and sixty-eight, as relates to the compensation of the clerk of the police court of Worcester, is hereby repealed.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, May 16, 1856.*]

Chap. 173 AN ACT concerning the Election of Clerks of Courts and other County Officers.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Choice of certain county officers.

SECT. 1. At the annual election in November, in the year one thousand eight hundred and fifty-six, and at the annual election in November of every third year thereafter, the legal voters of the several cities and towns in each county shall choose, by ballot, the commissioners of insolvency, sheriffs, and registers of probate for the several counties; they shall also choose, in the same manner, the district-

attorneys in their several districts, for the administration of criminal law; and also the Commonwealth's attorney for the county of Suffolk, who shall severally hold their respective offices according to the provisions of this act, hereinafter set forth.

SECT. 2. At the annual election in November, in the year one thousand eight hundred and fifty-six, and at the annual election in November of every fifth year thereafter, the legal voters of the several cities and towns in each county, excepting in the county of Suffolk, shall choose by ballot for their respective counties, a clerk, who shall act as clerk of the supreme judicial court, and the court of common pleas, within and for the county for which he shall be chosen; and at the same time the legal voters of the county of Suffolk shall choose by ballot for said county of Suffolk, a clerk of the supreme judicial court, a clerk of the superior court, and a clerk of the municipal court of said county.

SECT. 3. At said elections the votes shall be sorted and counted by the selectmen of the towns, and by the wardens and ward clerks of the cities, in open town and ward meetings, and public declaration made thereof at such meetings. The names of all persons voted for, and the number of votes received by each person, and the title of the office for which he is proposed, shall be entered by the town clerks in the town records, and by the ward clerks in the ward records, in words at length; and the said ward clerks shall, forthwith, deliver to the city clerks certified copies of such records, who shall forthwith enter the same in the city records. The said town and city clerks shall, within ten days from the day of said election, transmit, under seal, attested copies of the records so by them made, to the secretary of the Commonwealth, and the secretary shall lay the said returns before the governor and council.

SECT. 4. The governor and council shall receive and examine such returns; and if, upon such examination, it shall appear that any person qualified for the office for which he was proposed, has been legally elected thereto, the governor shall forthwith transmit to the person chosen, a certificate of such choice, signed by the governor, and countersigned by the secretary of the Commonwealth; but, in case of a failure to elect either of said officers, on the days in November aforesaid, the governor shall, by proclamation, declare such failure to elect, and order a new election; and the manner of the election, the return of the votes, and the declaration of election, shall be such as are herein before

Election of clerks of courts.

Votes to be sorted, counted, and declaration made, &c.

To be returned to secretary of Commonwealth in ten days.

Governor and council to examine returns, &c.

specified: and the governor shall continue to order new elections until a choice is effected.

Certain officers to hold for three years.

SECT. 5. The commissioners of insolvency, sheriffs, registers of probate, district-attorneys, and Commonwealth's attorney for the county of Suffolk, elected under the provisions of this act, shall hold their offices respectively for the term of three years from the first Wednesday of January next following said annual election in November, excepting as hereinafter provided.

Clerks of courts to hold for five years.

SECT. 6. The clerks of the courts, elected under the provisions of this act, shall hold their offices, respectively, for the term of five years from the first Wednesday of January next following said annual election in November, excepting as hereinafter provided.

Power of justices of S. J. Court to remove certain officers, &c.

SECT. 7. The justices of the supreme judicial court, or a majority of them, shall have power to remove the clerks of said court in any county, whenever, in their judgment, the public good shall so require: and on bill, petition, or other proper process, said justices, or a majority of them, shall have power to remove from office, any clerk of the court of common pleas, or of the superior or municipal courts of the county of Suffolk, and any commissioner of insolvency, sheriff, register of probate, and district-attorney, or Commonwealth's attorney for the county of Suffolk, if sufficient cause shall be shown therefor, and it shall appear that the public good so requires; and a summary hearing may be had before said justices, or a majority of them, upon said bill, petition, or other proper process, in term time or vacation.

Governor and council to fill certain vacancies.

SECT. 8. In case a vacancy shall, from any cause, occur in either of said offices of commissioners of insolvency, sheriffs, registers of probate, district-attorneys, or Commonwealth's attorney in the county of Suffolk, the governor, with the advice and consent of his council, may appoint a suitable person to fill such office, who shall hold the same until the annual election in November next thereafter, or until another is chosen or appointed in his stead; and at said annual election thereafter, an election by ballot shall be had to fill said office, for such unexpired term as may exist, in the same manner as is herein before provided by this act, for the election of said officers.

Clerks of courts, vacancies filled by judges

SECT. 9. In case a vacancy shall, from any cause, occur in the office of any of the clerks of courts herein before mentioned, the judges of the said several courts, or a majority of the same, may appoint a suitable person to fill such office, who shall hold the same until the annual election in

November next thereafter, or until another is chosen or appointed in his stead; and at said annual election next thereafter, an election by ballot shall be had, to fill said office for such unexpired term as may exist, in the same manner as is herein before provided for the election of said clerks.

SECT. 10. All laws in force, in relation to the duties of town and city officers and voters, in the election of governor, senators and representatives of this Commonwealth, shall, as far as the same may be applicable, apply and be in force in regard to meetings and elections to be held, and the returns to be made under the provisions of this act, respecting the choice of commissioners of insolvency, sheriffs, registers of probate, district-attorneys, the Commonwealth's attorney for the county of Suffolk, and the clerks of the several courts; and the like penalties shall be incurred for a violation thereof. [*Approved by the Governor, May 16, 1856.*]

Duty of town and city officers in elections, &c.

AN ACT in addition to an Act concerning Mortgages of Personal Property. *Chap. 174*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

In all mortgages of personal property, when the mortgagor shall have removed beyond the limits of this Commonwealth, and there shall be no attorney, assignee, or other legal representative of the mortgagor, and no person in possession of the mortgaged property, claiming the same, known to the mortgagee, upon whom notice of intention to foreclose can be served under the provisions of the seventy-second chapter of the acts of the year eighteen hundred and forty-three, the notice therein provided may be given by a publication of the notice of foreclosure at least once a week, for three several weeks, the first publication to be not less than sixty days previous to the foreclosure, and the last within one week of the time appointed therefor; the said publication to be made in one of the principal newspapers of the cities or towns where, by law, the said notice is to be recorded; and if there be no paper published in such cities or towns, then in one of the principal newspapers in the county or counties where such property is situated; and to be also recorded in the city or town clerk's office, as provided in said statute. [*Approved by the Governor, May 21, 1856.*]

Proceedings in foreclosure of mortgage of personal property.

Notice, how to be given, &c.

Chap. 175 AN ACT in addition to an Act to incorporate the Proprietors of the City Hotel, in Worcester.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Partial repeal. SECT. 1. The last proviso in the first section of the three hundred and forty-first chapter of the acts passed in the year one thousand eight hundred and fifty-three, which proviso begins with the words “and provided, further,” and continues through said first section, is hereby repealed.

Real and personal estate not to exceed \$100,000. SECT. 2. The said corporation may hold real and personal estate to an amount not exceeding one hundred and sixty thousand dollars.

Name changed. SECT. 3. The said corporation is hereby authorized to change its name, and take the name of the “Proprietors of the Bay State House.”

Act amended. SECT. 4. The first section of chapter four hundred and seventeen, of the acts passed in the year one thousand eight hundred and fifty-five, is hereby amended so that the word “fortieth,” in the first line, shall read “forty-first.” [*Approved by the Governor, May 21, 1856.*]

Chap. 176 AN ACT for the Preservation of Fish in Buzzard’s Bay, within the Towns of Sandwich and Wareham.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Seine fishing limited. SECT. 1. No person shall set, draw, or stretch, any seine or net, for the purpose of taking any fish, except blue fish, in the bays, harbors, ponds, rivers, or creeks, of the waters of Buzzard’s Bay, within one mile from the shore, and within the jurisdiction of the towns of Sandwich and Wareham.

Special limit from April to July. SECT. 2. From the first day of April until the first day of July, inclusive, it shall be unlawful for any person to take more than one hundred pounds per week, of lobster, tautog, bass, or scuppaug, within the waters aforesaid.

Penalty for violating, &c. SECT. 3. Any person violating the provisions of this act, or either of them, shall be subject to a penalty of not more than fifty dollars; one-half to the complainant, and remainder to the towns in whose jurisdiction the offence was committed.

How recovered. SECT. 4. The penalties above provided for, may be sued for and recovered in an action of contract, or an action of tort, in any court proper to try the same, upon complaint of the selectmen, or any legal voter of the towns of Sandwich or Wareham.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, May 24, 1856.*]

AN ACT concerning the Salary of the Register of Probate for the County of *Chap. 177*
Dukes County.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The register of probate for the county of Dukes Salary estab-
County, shall receive for his services an annual salary of the lished.
sum of two hundred and seventy-five dollars.

SECT. 2. Said salary shall commence on the first day of Paid quarterly.
July next, and be paid in equal quarterly payments, out of
the treasury of the Commonwealth, on the first days of
October, January, April and July, in every year.

SECT. 3. All acts and parts of acts, inconsistent with the Inconsistent acts
provisions of this act, are hereby repealed. [*Approved by* repealed.
the Governor, May 24, 1856.]

AN ACT in addition to an Act to incorporate the S. P. Ruggles Power Press *Chap. 178*
Manufacturing Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The S. P. Ruggles Power Press Manufacturing Additional
Company, in addition to its present powers, is hereby au- powers.
thorized to manufacture printing presses, and other ma-
chinery, in the county of Norfolk.

SECT. 2. This act shall take effect from and after its
passage. [*Approved by the Governor, May 24, 1856.*]

AN ACT to repeal chapter two hundred and eighty-three of the Statutes of the *Chap. 179*
year eighteen hundred and fifty-three.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The two hundred and eighty-third chapter of Act repealed.
the statutes of the year eighteen hundred and fifty-three, is
hereby repealed.

SECT. 2. This act shall not affect any suits or complaints Not to affect
now pending. [*Approved by the Governor, May 24, 1856.*] pending suits.

Chap. 180 AN ACT to authorize the Hampshire and Hampden Railroad Corporation to extend their Railroad.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

May extend rail-
road.

Location.

Branch track.

Proviso.

SECT. 1. The Hampshire and Hampden Railroad Corporation are hereby authorized to extend their railroad, within two years from the passage of this act, from the crossing of Pleasant Street, in the village of Northampton, in a north-easterly direction, over the lands of the Connecticut River Railroad Company, to the south end of a new passenger-house to be owned in common by the Hampshire and Hampden Railroad Corporation and the Connecticut River Railroad Company, on a line agreed upon by the said corporations, which line begins near the crossing of Pleasant Street, in the present location of the said Hampshire and Hampden Railroad Corporation, and running thence north-easterly, on a curve to the left, of four hundred and forty feet radius, about seven hundred feet, to a point situated one hundred and eighty-three feet northerly from the north-west corner of the present passenger-house of the Connecticut River Railroad Company, and thirty-seven and one-half feet westerly from the centre of the main track of the Connecticut River Railroad, and thence northerly, parallel to the aforesaid main track, one hundred and eighty-one feet, to the south end of the new passenger-house aforesaid. And the Hampshire and Hampden Railroad Corporation are further authorized to construct a branch track, leading southerly from the aforesaid extension track, to unite with a branch track of the Connecticut River Railroad, between the freight and passenger-houses of the last named company: *provided, however,* that the Hampshire and Hampden Railroad Corporation shall, before they commence the extension of their railroad, authorized by this act, purchase the lot of land known as the "Strong Lot," and erect thereon and on the adjoining lands of the Connecticut River Railroad Company, the new passenger-house above mentioned, of dimensions and style adapted to the requirements of the passenger business of the two corporations, and shall pay to the Connecticut River Railroad Company the cost of removing such of their wood-sheds, car-houses, water fixtures, tracks and other appurtenances, as it may become necessary to move in consequence of the change in the location of their passenger-house.

C. C. Pleas to
appoint commis-
sioners in case

SECT. 2. In case of disagreement between the two corporations above named, as to the necessity of the removal at

the cost of the said Hampshire and Hampden Railroad Corporation, as provided in the preceding section, of any of the wood-sheds, car-houses, water-fixtures, tracks, or other appurtenances of the Connecticut River Railroad Company, or the cost of such work, or as to the dimensions and style of the passenger-house to be erected, as aforesaid, or as to what portions of the land occupied by the said corporations, shall be held in severalty by each of said corporations, and as to what portions of said land shall be held by the said corporations in common; or as to what amount or amounts shall be paid, by either of the said corporations, to the other, for any land, the property of one of said corporations, taken by the other, under the authority conferred by this act, or purchased by one of said corporations, for the use of both of the said companies, the court of common pleas for the county of Hampshire, or any judge of the same, may, upon the petition of either of said corporations, name and appoint three capable and disinterested persons as commissioners, to determine the questions in dispute between the said corporations; and either party, if dissatisfied with the decision of said commissioners, as to the amount to be paid by either of said corporations, to the other, for any land or other property of one of said corporations, taken by the other under the authority conferred by this act, may apply for a jury to assess the damages, in the manner provided in the thirtieth chapter of the Revised Statutes.

of disagreement,
&c.

Either party may
apply for jury.

SECT. 3. When the tracks authorized to be laid by the first section of this act, and described in said section, shall have been located and constructed, in accordance with the provisions of this act, they shall be deemed and taken to be a part of the Hampshire and Hampden Railroad, and shall be protected by its charter, as fully as they would have been if located and constructed within the time prescribed in said charter; and the said charter is hereby ratified and confirmed, and declared to be in full force and effect, notwithstanding the failure of the said corporation to complete their road within the time prescribed in said charter. [*Approved by the Governor, May 24, 1856.*]

Charter confirmed
when tracks
completed.

AN ACT in addition to an Act concerning Agricultural Societies which receive the Bounty of the State. *Chap. 181*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. No incorporated agricultural society, receiving the bounty of the State according to the provisions of chap-

Award of premi-
ums prohibited
in certain cases.

ter forty-two of the Revised Statutes, shall distribute any part thereof to any person for any animal or article for which a premium shall be awarded, unless such animal or article shall be produced within the limits of such agricultural society, or such animal has been owned and kept within the limits of such society, by the person to whom such premium shall be awarded, for the term of three months, at least, next preceding the award of such premium. And no animal for which a premium shall be awarded to the owner, by any incorporated agricultural society receiving the bounty of the State, shall at any time thereafter, be considered a subject for any further premium of such society, except it be for qualities different from those for which the former premium was awarded, or for a higher premium: *provided, however,* that nothing in this act shall affect, restrain or limit a competitor for premiums offered by the Massachusetts Society for the Promotion of Agriculture, to be awarded within the incorporated county agricultural societies, but such premiums shall be subject to the rules and regulations to be prescribed by the trustees of said Massachusetts Society.

Proviso

Societies disregarding, &c., not to receive bounty.

SECT. 2. No incorporated agricultural society receiving the bounty of the State, which shall hereafter disregard the prohibitions of this act, shall be entitled to receive any part of said bounty for that year.

Act repealed.

SECT. 3. Chapter two hundred and ninety-six of the acts of the year one thousand eight hundred and fifty-five, entitled an act concerning agricultural societies which receive the bounty of the State, is hereby repealed. [*Approved by the Governor, May 24, 1856.*]

Chap. 182

AN ACT concerning the Boston and Roxbury Mill Corporation.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Tolls established.

SECT. 1. The Boston and Roxbury Mill Corporation shall have the right to demand and receive upon the Western Avenue, instead of the tolls heretofore established, the tolls now by law established upon the bridges of the Hancock Free Bridge Corporation: *provided,* that this act shall not extend the time allowed by their present obligations to the Commonwealth, or any other party.

Proviso.

When to take effect.

SECT. 2. This act shall not take effect until it shall have been accepted by said corporation, at a meeting called for that purpose. [*Approved by the Governor, May 24, 1856.*]

AN ACT to authorize the First Congregational Parish in West Cambridge to enclose their Land. *Chap. 183*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1 The First Congregational Parish in the town of West Cambridge are hereby authorized and empowered to enclose the land belonging to said parish, and to make such change in the roads and ways by which said land is traversed as they may think proper, and as shall be approved by the selectmen, or a majority thereof, of said town : *provided*, that there shall be reserved to Nathan Robbins, his heirs and assigns, a way two rods in width, upon and over said land, and extending along the easterly line of his estate, from Main Street to the wall of the burial ground ; he not being authorized hereby to remove any shed now on said way without the consent of the owner thereof.

May enclose lands, &c.

Proviso.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 24, 1856.*]

AN ACT in addition to an Act in relation to Law Library Associations. *Chap. 184*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The counsellors and attorneys at law, duly admitted to practice in the courts of this Commonwealth, resident in either of the counties, who have omitted to organize a law library association in their respective counties, are hereby authorized to organize themselves in their counties respectively, into an association, by the name of the Law Library Association for such county, under the like provisions, and with the same rights, powers and duties, as if the said association had been organized within the time prescribed by the ninety-fourth chapter of the statutes of the year eighteen hundred and forty-two ; and said association, when so organized, shall be deemed and taken to be a corporation, and entitled to all the privileges, and subject to all the provisions applicable to law library associations, created under, and pursuant to the act aforesaid. [*Approved by the Governor, May 24, 1856.*]

May organize county law library associations.

Chap. 185

AN ACT in relation to Sheriffs and their Deputies.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Fees for travel.

Every sheriff and deputy-sheriff who shall attend on any court of record, or at any meeting of the county commissioners, by their order, shall be allowed for his travel, out and home, four cents a mile, once during each week that they may be in attendance. [*Approved by the Governor, May 24, 1856.*]

Chap. 186

AN ACT concerning Idle and Disorderly Persons.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Act defined.

The words "idle and disorderly persons," in the fifth section of the one hundred and forty-third chapter of the Revised Statutes, shall be held to include all persons, who neglect all lawful business, and habitually misspend their time, by frequenting houses of ill fame, gaming-houses or tipling shops. [*Approved by the Governor, May 24, 1856.*]

Chap. 187

AN ACT in addition to an Act to incorporate the Cutting Machine Manufacturing Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Additional powers.

SECT. 1. The Cutting Machine Manufacturing Company, in addition to their present powers, are hereby authorized to do repair work, and make such machines as may be connected with the manufacture and use of their cutting machines.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 24, 1856.*]

Chap. 188

AN ACT to enable parties in Civil Actions to be Witnesses therein.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Parties in actions may testify, &c.

Parties in all civil actions may be admitted to testify in their own favor, and may be called as witnesses by the opposite party: *provided*, that no party so testifying shall be compelled to criminate himself; and *provided, also*, where the original party to the contract, or cause of action, is dead,

Proviso.

or when an executor or administrator is a party to the suit, the other party shall not be admitted to testify. [*Approved by the Governor, May 26, 1856.*]

AN ACT in addition to an Act to supply the City of Worcester with Pure Water. Chap. 189

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The city of Worcester is hereby authorized and empowered to take and convey into and through the said city, the waters of Kettle Brook, so called, in the south-westerly part of said city, the waters of the same to be taken from said brook at a point about two miles from the village of New Worcester, so called, by an aqueduct, direct into said city, or at a point higher up said brook, in the town of Leicester, and conducted by an artificial channel into Henshaw Pond, so called, in said town of Leicester, and so through said pond and along with the waters of said pond into said city; or, take the waters of Half-way River, so called, in the southerly part of Worcester, from a pond raised by means of a dam across the valley of said river; or, to take water from Mill Brook or vicinity, so called, in the northerly part of Worcester, or from Quinsigamond Pond, so called, in the easterly part of said Worcester, as the city council may elect, and to take and hold any water that may flow into any of said ponds or streams, or into and from either of the above water-courses, and any water-rights connected therewith, and any lands or estates necessary for the laying out and maintaining an aqueduct for conducting the waters from either of said sources to said city, and for forming reservoirs; and may also take and hold land around the margin of either of said ponds, or around any reservoirs or water-sources which they may possess or create, in the valleys of said brooks, for the purpose of supplying the said city with pure water.

SECT. 2. The said city of Worcester may make and build an aqueduct from either of the aforesaid sources of supply, to, into and through the said city, and secure and maintain the same by any works suitable therefor; may erect and maintain a dam or dams at the outlet of either of said ponds, and across the valleys of either of said brooks, at the points above mentioned, and at other points above the same, to raise and retain the waters therein; and may erect and maintain reservoirs, enlarge and alter water-courses, make and maintain hydrants in such places as may be deemed

proper; may distribute the waters through the city, and for that purpose may lay down pipes through and across any street, road or highway, or over and across lands to any buildings in said city; may regulate the use of the water, and establish and fix rents or rates for the consumption and use thereof; and for the purposes aforesaid, the city may conduct said aqueduct over, under or across, or along any street, highway, or other way, in such manner as not to obstruct travel thereon; and may enter upon and dig up any such road, street or highway, by consent of the town in which the same may be located, for the purpose of laying down pipes beneath the surface of the same, and for the repairing thereof.

City to appoint officers, &c.

SECT. 3. The rights, powers and authority, given by this act, shall be exercised by the city of Worcester, subject to the restrictions, duties and liabilities, herein contained, in such manner, and by such officers, servants and agents, as the city council shall, from time to time, ordain, appoint and direct.

City to issue scrip.

SECT. 4. For the purpose of defraying the cost of such land, water and water-rights so taken and held as aforesaid, and of constructing and maintaining said aqueduct, reservoirs and works necessary for the accomplishment of the end contemplated by this act, and all expenses incident thereto, the city council shall have authority to borrow, from time to time, such sums of money, and to issue bonds, notes or certificates, therefor, to be denominated on the face thereof, Worcester Water Scrip, to an amount not exceeding three hundred and fifty thousand dollars, bearing interest not exceeding six per cent., payable semi-annually, and the principal to be made payable at periods not less than ten years from the date thereof; and the city council may sell the whole or any part of said scrip, from time to time, or pledge the same for money borrowed for the purposes of this act, on such terms and conditions as it shall deem proper. And the said city council is hereby further authorized to grant appropriations, and assess, from time to time, such sums of money, not exceeding in any one year the sum of ten thousand dollars, towards paying the principal of the moneys so borrowed, besides a sum sufficient to pay the interest thereof, in the same manner as moneys are appropriated and assessed for other city purposes.

When payable.

Price of water.

SECT. 5. To enable the city council to pay the interest as it may accrue upon said scrip, and ultimately the principal thereof, it shall be lawful for the said council to fix and establish the price or rate which shall be paid for the use of

any part of said water, by any taker thereof in said city, and the same to alter, from time to time, as may be deemed expedient.

SECT. 6. If any person shall wantonly or maliciously divert the waters, or any part thereof, from any of the ponds, brooks, reservoirs or water-sources, which shall be taken by the city pursuant to the provisions of this act, or shall corrupt the same, or destroy or injure any dam, aqueduct, conduit, pipe, hydrant or other property held and used by the city by authority and for the purpose of this act, every such person or persons shall forfeit and pay to the said city of Worcester, three times the amount of the damages that shall be sustained thereby, to be recovered in any proper action; and upon indictment and conviction for either of said acts, shall be punished by a fine not exceeding one thousand dollars, and by imprisonment in the house of correction of the county not exceeding one year.

Penalty for diverting water, &c.

SECT. 7. All damages which may be sustained by reason of the taking by said city of any of the ponds or brooks aforementioned, or of the water thereof, or the water-rights connected therewith, or of diverting any portion of said water from its natural channel into other channels, or of erecting and maintaining any dam or reservoir, or digging up any land, street, road or highway, and entering upon the same for laying, repairing and maintaining pipes, conduits, hydrants, and other apparatus necessary thereto, shall be paid by the said city of Worcester to the individual or corporation injured, which damages shall be assessed in the same manner as is provided in the twenty-fourth chapter of the Revised Statutes with regard to highways.

Damages, how assessed and paid.

SECT. 8. The provisions of this act shall be void unless submitted to, and approved by, the voters of the city of Worcester, at meetings held simultaneously for that purpose, in the several wards, upon notice duly given, at least seven days before the time of holding said meetings. [*Approved by the Governor, May 26, 1856.*]

Act void unless approved, &c.

AN ACT in addition to an Act to incorporate the Worcester County Mechanics' Association. *Chap. 190*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The Worcester County Mechanics' Association may hold real estate to an amount not exceeding fifty thousand dollars, in addition to the sum specified in the sixty-sixth chapter of the acts of the year one thousand eight hundred and fifty. [*Approved by the Governor, May 28, 1856.*]

Additional real estate.

Chap. 191 AN ACT to incorporate the Homœopathic Medical Dispensary.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators. SECT. 1. John H. Wilkins, Charles B. Hall, Jacob Sleeper, of Boston, together with their associates and successors, be, and hereby are, made a corporation by the name of the Homœopathic Medical Dispensary; with all the powers and privileges, and subject to all the duties, liabilities and restrictions set forth in the forty-fourth chapter of the Revised Statutes.

May hold and dispose of real and personal estate. SECT. 2. Said corporation are hereby authorized to make purchases, and receive grants and donations of real and personal estate, and to hold and manage, and to dispose of the same, as may be deemed best by this corporation, for the better fulfilment of the charitable purposes aforesaid: *provided*, that said real and personal estate shall not exceed in value the sum of fifty thousand dollars.

Proviso. SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 28, 1856.*]

Chap. 192 AN ACT to authorize David Low to extend the Wharf belonging to the heirs of George Parkhurst, deceased.

Be it enacted by the Senate, and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

May extend wharf in Gloucester. SECT. 1. David Low is hereby authorized to extend the wharf belonging to the heirs of George Parkhurst, deceased, in the "upper cove" in the harbor of Gloucester, fifty feet from that wharf as it now is; and he shall have the right to lay vessels at the end and sides of the said wharf, and receive wharfage and dockage therefor: *provided*, that this act shall in no wise impair the legal rights of any person whatever.

Rights, &c. SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 28, 1856.*]

Chap. 193 AN ACT to authorize Benjamin H. Breitt and Barnabas S. Young to build a Wharf.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Wharf in Wellfleet. Benjamin H. Breitt and Barnabas S. Young are hereby authorized to build and maintain a wharf from the north side of Great Island, so called, in the town of Wellfleet,

and to extend the same two hundred feet from high-water mark: *provided, however*, that the said wharf shall not extend into the channel, so as to obstruct the navigation of said channel; and they shall have the right to lay vessels at the end and sides of said wharf, and to receive wharfage and dockage therefor: *provided*, that this act shall, in no wise, interfere with the legal rights of any person or persons whatever; and *provided, further*, that this grant shall not extend beyond the first day of March, in the year one thousand eight hundred and sixty-one. [Approved by the Governor, May 28, 1856.]

Proviso.
Rights, &c.
Proviso.
Provided, further.

AN ACT authorizing the Fitchburg Gas Company to supply the Inhabitants of Fitchburg with Water. *Chap. 194*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

The Fitchburg Gas Company are hereby authorized to supply the inhabitants of Fitchburg with water, by means of aqueducts, and may establish rents therefor; and for that purpose, said company shall have the same powers, and be subject to all the duties, restrictions and liabilities, in laying down pipes for the conveyance of water, that they now have, or are subject to, by virtue of their charter, in laying down pipes for the conveyance of gas. [Approved by the Governor, May 28, 1856.]

Gas company may supply water, &c.
Privileges, restrictions, &c.

AN ACT to incorporate the Boston and North Cambridge Omnibus Company. *Chap. 195*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

SECT. 1. Lewis Putnam, Henry A. Snow, Joseph A. Bruce, their associates and successors, are hereby made a corporation by the name of "The Boston and North Cambridge Omnibus Company," for the purpose of maintaining and running a line of omnibuses between the city of Boston and the northerly part of the city of Cambridge, through the town of Somerville, for the conveyance of passengers; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.
Name.
Purpose.
Privileges, restrictions, &c.

SECT. 2. Said corporation may hold real estate and personal property to an amount not exceeding twenty thousand dollars, and the whole capital stock shall not exceed the amount of thirty thousand dollars.

Real and personal estate, \$20,000.
Whole capital, \$30,000.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 28, 1856.*]

Chap. 196

AN ACT to authorize the Selectmen of Wellfleet to build a Bridge.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Bridge in Wellfleet.

SECT. 1. The selectmen of the town of Wellfleet are hereby authorized and empowered to construct a bridge across the north-east arm of Duck Creek, in said town, from Hamblen's Island, so called, to some point eastward of the wharf of Timothy A. Daniels, the same being above navigation on said creek.

When to be finished.

SECT. 2. The said selectmen of Wellfleet shall lay out and finish said bridge within two years from the passage of this act.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 28, 1856.*]

Chap. 197

AN ACT to incorporate the Boston Inland Mutual Insurance Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

Caleb Stetson, Samuel Lawrence, James C. Converse, their associates and successors, are hereby made a corporation by the name of the Boston Inland Mutual Insurance Company, to be established in Boston, and to continue for the term of twenty years, for the purpose of making insurance, on the mutual principle, against losses by fire and all marine risks, as well as against all inland navigation and transportation risks, upon goods, wares, merchandise and all other property to be transported from or to any place within this Commonwealth, to or from any and all places within the United States or the Canadas, with power also to contract for and insure the true and safe delivery of the same within such time and upon such terms as may be fixed by any agreement made by said corporation; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-seventh and forty-fourth chapters of the Revised Statutes, and in all statutes which have since been passed, or which may hereafter be passed, relating to mutual fire and marine insurance companies. [*Approved by the Governor, May 28, 1856.*]

Name.

Duration.

Purpose.

Privileges, restrictions, &c.

AN ACT to incorporate the South Reading Hotel Company.

Chap. 198

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. E. G. Stevens, B. W. Robinson, James M. Stone, their associates and successors, are hereby made a corporation under the name of the "South Reading Hotel Company," for the purpose of erecting a hotel in the town of South Reading, and maintaining such public house and the improvements connected therewith; and for these purposes, shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes: *provided*, that the said corporation shall not carry on the business of hotel-keeping, or be in any way interested in such business.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

Proviso.

SECT. 2. The whole amount of real and personal estate, or capital stock, which said corporation may hold for the purposes aforesaid, shall not exceed forty thousand dollars in value. [*Approved by the Governor, May 28, 1856.*]

Real and personal estate, \$40,000.

AN ACT to change the Name of the Female Medical Education Society to New England Female Medical College, and to reorganize the same.

Chap. 199

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The name of the Female Medical Education Society, shall hereafter be New England Female Medical College.

Name changed.

SECT. 2. All the government and business of said college shall be conducted by a board of trustees, consisting of twenty members. The present directors, to wit,—John S. Tyler, Benjamin C. Clark, Samuel E. Sewall, Adam W. Thaxter, Jr., Dexter S. King, John P. Jewett and Samuel Gregory, shall be trustees till others are chosen in their stead.

Government of college.

SECT. 3. At the first meeting of the above named seven trustees of said college, they shall choose thirteen persons to complete the board of trustees. When the number of twenty is thus completed, they shall be divided, by lot, into five classes of four each, whose terms of office shall successively expire in one, two, three, four and five years; and at the end of each year four trustees shall be chosen for five years, the choice to be made by the sixteen trustees remaining in office.

Choice of trustees.

SECT. 4. The trustees shall have power to fill all vacan-

Powers of trustees.

cies, occurring from any cause, in their board; to elect a president, secretary, treasurer, and such other officers as they may consider necessary; to make by-laws; to appoint professors, who shall constitute a medical faculty; and to confer the usual degree of doctor of medicine.

When to take effect.

SECT. 5. This act shall take effect as soon as the same shall have been accepted at a meeting of the Female Medical Education Society, called for the purpose; of which meeting notice shall be given by said directors, by publishing a call for the meeting in not less than three of the newspapers printed in Boston, at least six days before the meeting. [Approved by the Governor, May 28, 1856.]

Chap. 200 AN ACT to authorize the Directors of Liberty Hall Association to purchase and hold additional Real Estate.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Directors authorized to purchase additional real estate.

Not to exceed \$10,000.

Not to take effect unless, &c.

SECT. 1. The Directors of Liberty Hall Association, in the city of New Bedford, are authorized to purchase real estate for the purposes of said association, to an amount not exceeding ten thousand dollars, to be held by the proprietors of said association, in common with the other property belonging to said association; and they may raise money for the same by assessments on the members, and collect the same in the same manner as provided by the forty-third chapter of the Revised Statutes, for raising money for other purposes by associations organized under that chapter.

SECT. 2. This act shall not take effect unless duly approved by the proprietors of Liberty Hall Association, at a meeting duly called for that purpose. [Approved by the Governor, May 28, 1856.]

Chap. 201

AN ACT to incorporate the West Roxbury Railroad Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Corporators.

Power to construct railway.

Location.

SECT. 1. Stephen M. Weld, William Wellington, Jr., and John Gardner Weld, their associates and successors, are hereby made a corporation by the name and title of the West Roxbury Railroad Company; with power to construct, maintain and use a railway or railways, with convenient single or double tracks, from such point or points of the town of West Roxbury, upon and over the streets or highways therein, to the line separating said town from the

city of Roxbury, as shall be, from time to time, fixed and determined by vote of the selectmen of said town, and assented to in writing by said corporation; and at said line to connect with the Metropolitan Railroad Company, at such points as may be agreed upon, in writing, between two said railroad companies, and assented to by a vote of the mayor and aldermen of said city of Roxbury: *provided*, that all tracks of said railroads shall be laid at such distances from the sidewalks in said town, as the selectmen thereof shall, in their orders fixing the routes of said railroad, determine to be for the public safety and convenience: *provided, further*, that before the location or construction of any track in any street, the selectmen of said town shall give notice to the abutters thereon fourteen days, at least, before the hearing that they may show cause, if any there be, why said track shall not be so located and constructed; and said corporation shall have power to fix, from time to time, such rates of compensation for transporting persons or property thereon, as they may think expedient, and be subject to all the duties, restrictions and liabilities, and entitled to all the rights and privileges, prescribed by the forty-fourth chapter of the Revised Statutes: *provided, however*, that nothing herein contained shall be so construed as to authorize the construction of any part of the railway hereby authorized, within the limits of the city of Roxbury.

SECT. 2. Said tracks or road shall be operated and used by said corporation with horse-power only, and it shall not connect its track with any other railroad on which other power is used. The selectmen of said town shall have power, at all times, to make all such regulations, as to the rate of speed and mode of use of said tracks, as the public convenience and safety may require.

SECT. 3. Said corporation shall maintain and keep in repair such portion of the streets, respectively, as shall be occupied by their tracks, and shall be liable for any loss or injury that any person may sustain, by reason of any carelessness, neglect or misconduct of its agents and servants, in the management, construction or use of said tracks or roads; and, in case any recovery shall be had against said town by reason of such defect, want of repair or use, said corporation shall be liable to pay to said town any sums thus recovered against it, together with all cost and reasonable expenditures incurred by said town, in the defence of any such suit or suits, in which such recovery shall be had; and said corporation shall not encumber any portion of the streets not occupied by the said road or tracks.

Fine for obstructing, &c.

SECT. 4. If any person shall wilfully and maliciously obstruct said corporation in the use of said road or tracks, or the passing of the cars or carriages of said corporation thereon, such persons, and all who shall be aiding or abetting therein, shall be punished by a fine not exceeding five hundred dollars, or may be imprisoned in the common jail for a period not exceeding three months. If said corporation, or its agents or servants, shall wilfully and maliciously obstruct any highway, or the passing of any carriages over the same, such corporation shall be punished by a fine not exceeding five hundred dollars.

Capital stock, \$200,000, in shares of \$50.

SECT. 5. The capital stock of said corporation shall not exceed the sum of two hundred thousand dollars, to be divided into shares of fifty dollars each; and no shares shall be issued for a less sum, to be actually paid in on each, than the par value of the shares which shall first be issued.

May hold real estate.

SECT. 6. Said corporation shall have power to purchase and hold such real estate, within said town, as may be necessary or convenient for the purposes and management of said road.

West Roxbury may purchase franchise, &c.

SECT. 7. The town of West Roxbury may, at any time during the continuance of the charter of said corporation, and after the expiration of ten years from the opening of any part of said road for use,—purchase of said corporation all the franchise, property, rights and furniture of said corporation, by paying them therefor such a sum as will reimburse to each person who may then be a stockholder therein, the par value of his stock, together with a net profit of ten per cent. per annum from the time of the transfer of said stock to him on the books of the corporation, deducting the dividends received by said stockholder thereon.

Gauge and grade of road. Proviso.

SECT. 8. The said road shall be constructed and maintained in such form and manner, and upon such grade, and with such gauge, as the selectmen of said town may, in their votes, fixing and determining the routes thereof, as aforesaid, prescribe and direct; and whenever, in the judgment of said railroad corporation, it shall be necessary to alter the grade of any street so occupied by it, such alteration may be made at the sole expense of said corporation: *provided*, the same shall be assented to by the selectmen of said town.

Act not to prevent authorities, &c.

SECT. 9. Nothing in this act shall be construed to prevent the town authorities of said town from taking up any of the public streets traversed by the said railroad, for the purposes for which they may lawfully take up the same.

Act void unless, &c.

SECT. 10. This act shall be void so far as relates to the

right to construct said road in said town, unless the same shall be accepted by the citizens thereof in town meeting, and unless the same shall be accepted by said corporation, and ten per cent. of the capital thereof paid in, within two years from the passage of this act.

SECT. 11. The said corporation shall be deemed a rail-^{Returns.}road corporation, so far as to be subject to make such annual returns to the legislature as are, or may be, prescribed by law; but not to the other general provisions of law in relation to railroad corporations.

SECT. 12. The existence of said corporation is hereby^{Duration.} limited to the period of fifty years from the passage hereof. [*Approved by the Governor, May 28, 1856.*]

AN ACT to authorize the appointment of Auditors, and defining their Powers. *Chap. 202*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Whenever a cause is at issue in any court,<sup>Court may ap-
point auditors.</sup> whether the form of the action be contract, tort, or replevin, the justice of the court before whom the same is pending, may, in his discretion, appoint one or more auditors to hear the parties and report upon such matters therein as may be directed by the said court; and the report in such case shall<sup>Report to be evi-
dence, &c.</sup> be *prima facie* evidence upon such matters only as are expressly embraced in the order of the court.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 28, 1856.*]

AN ACT authorizing the County Commissioners of the County of Essex to lay<sup>Highway in Man-
chester.</sup> out and construct a Highway in the Town of Manchester. *Chap. 203*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The county commissioners of the county of Essex are hereby authorized and empowered, if, in their judgment, they deem it expedient, to lay out a highway in the town of Manchester, commencing at a point near the depot of the Gloucester Branch Railroad, crossing said road and the tide-water of the creek next adjoining said railroad, and also the creek known as Day's Creek, so called, to some convenient point on the Old Neck, so called. Said commissioners, in laying out and constructing said highway, shall conform to all laws with regard to the laying out of highways and bridges.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 28, 1856.*]

Chap. 204 AN ACT to establish and confirm the Boundary Line between the Town of Chilmark and the Indians of Gay Head.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Boundary line established.

The boundary line between the town of Chilmark and the land of the Indians of Gay Head, in the county of Dukes, as laid down and described in the report of the commissioners appointed under the resolve of the legislature, approved the ninth day of March, eighteen hundred and fifty-five, is hereby established and confirmed. [*Approved by the Governor, May 28, 1856.*]

Chap. 205 AN ACT to authorize Joseph Friend, Frederic Norwood and Samuel K. Friend, to extend their Wharf.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

May extend wharf in Gloucester.

SECT. 1. Joseph Friend, Frederic Norwood and Samuel K. Friend, are hereby authorized to extend their wharf in the "Upper Cove," in the harbor of Gloucester, thirty feet from their wharf as it now is; and they shall have the right to lay vessels at the end and sides of the said wharf, and receive wharfage and dockage therefor: *provided*, that this act shall in no wise impair the legal rights of any person whatever.

Rights. &c.

Proviso.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 28, 1856.*]

Chap. 206 AN ACT to confirm the Title of certain lands in Tisbury to Jemima Easton and her Heirs, and other Indians of Deep Bottom.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Title established.

SECT. 1. The title of all the tract of land known as Deep Bottom, situate in the town of Tisbury, in the county of Dukes County, with all rights, privileges and appurtenances thereto belonging, is hereby established and confirmed, in accordance with the report of the commissioners appointed under the resolve of the legislature, approved the seventeenth day of May, eighteen hundred and fifty-five, namely: To James Look of Tisbury, and his heirs and

assigns, and to William Sanford Vincent, and his heirs and assigns forever, the several tracts to them respectively allotted and bounded as described in the appendix to the report aforesaid, and in the plan accompanying the same, and the remainder of the said land to Jemima Easton and her heirs and assigns, and to the other Indians of Deep Bottom, and their heirs and assigns, forever.

SECT. 2. John Vinson, Esquire, of Edgartown, or such other person as the governor may appoint in his stead, in case of inability or refusal of said Vinson to act in this matter, is hereby authorized,—in conjunction with any other person whom the majority of the Indians at Deep Bottom, of lawful age, of both sexes, may appoint, subject, however, to the approval of the governor,—to make such division and apportionment of the lands at Deep Bottom among the said Indians, as they may deem just and equitable; and such apportionment and division shall, after being recorded in the registry of deeds in said county, vest a fee simple in each parcel of said lands, in such Indian or Indians, as such parcel may be apportioned and assigned to in the said division: *provided, however,* that if any of the said Indians shall represent themselves as aggrieved in the division and apportionment of said lands, to the governor and council, a revision of said division and apportionment may be ordered by the governor and council, if they shall see fit; and in case of such complaint, no registry shall be made thereof until it shall have been approved by them.

Apportionment
of lands among
the Indians.

Proviso

SECT. 3. The said John Vinson, and such as may be authorized, as above provided, for the distribution of said lands, are also hereby authorized to receive from the commissioners named in the first section, the several sums of money paid to them by way of compromise and settlement, as stated in their report; and to divide and distribute the same among the said Indians in such manner as they may deem just and equitable. [*Approved by the Governor, May 28, 1856.*]

Distribution of
money.

AN ACT to amend the Charter of the City of Lowell.

Chap. 207

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

SECT. 1. At the annual city election in the city of Lowell, on the second Monday of December next, there shall be elected in each ward one person, being an inhabitant of said ward, to be a member of the school committee of said city,

Election of school
committee.

for the term of one year from the first Monday in January next; and another person, being also an inhabitant of said ward, to be a member of the school committee of said city, for the term of two years from the first Monday in January next: and at the annual city election in said city on the second Monday in December in each year thereafter, there shall be elected in each ward in said city, one person, being an inhabitant of said ward, to be a member of the school committee of said city, for the term of two years from the first Monday in January next following such election.

Committee, how constituted.

SECT. 2. The mayor and president of the common council, *ex officio*, together with the persons elected as provided in the first section, shall constitute the school committee of Lowell.

Act void, unless accepted, &c.

SECT. 3. This act shall be void unless accepted by a majority of the legal voters of said city, voting thereon, at the election to be holden in said city on the second Monday in June next. [Approved by the Governor, May 29, 1856.]

Chap. 208

AN ACT in relation to Certain Proceedings in Probate Courts.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Case may be removed to adjoining county when judge is executor, &c.

SECT. 1. Any judge of probate in this Commonwealth may order any case in which he is, or may be executor, administrator, guardian or trustee, and which was, or may be, unfinished and pending at the time of his appointment in the court of which he has been, or may be, appointed judge, to be removed to the probate court of the most ancient adjoining county; and upon such order the case shall be so removed, and copies of the records of proceedings had in the case, and copies of all papers filed therein, shall thereupon be entered, filed and recorded in the probate court of the latter county; and after such removal, the further proceedings in the case and the disposal and settlement thereof, shall be the same in the county to which it may be thus removed, as if it had been originally commenced therein, giving full effect to all proceedings had in the case previous to its removal.

Same, if any way interested.

SECT. 2. Any judge of probate may, on motion of any party in the case, or of any person interested therein, order any case commenced before his appointment as judge in the court of which he is, or may be judge, and in which case such judge was retained, or employed as counsel, or otherwise concerned or interested before his appointment, to be

removed to the most ancient adjoining county; and upon such order the case shall be so removed, in the same manner, and with the same effect, as provided in relation to the removal of certain other cases by the first section of this act; and unless such motion shall be made, such case need not be removed, and the court in which the same was commenced may continue to have jurisdiction therein.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 30, 1856.*]

AN ACT relating to the Record of Attachments.

Chap. 209

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

The thirtieth section of the ninetieth chapter of the Revised Statutes, is so far amended, that in cases where there are more than one defendant, the clerk shall not be required to enter in the book therein mentioned, the name of any defendant whose real estate is not attached. [*Approved by the Governor, May 30, 1856.*]

Duty of clerks in cases of attachment.

AN ACT to incorporate the Abington Mutual Fire Insurance Company.

Chap. 210

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

SECT. 1. Asaph Dunbar, Joshua L. Nash, William Brown, their associates and successors, are hereby made a corporation, by the name of the Abington Mutual Fire Insurance Company, to be established in the town of Abington, for the term of twenty-eight years, for the purpose of insuring dwelling-houses and other buildings, and personal property, against loss or damage by fire; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the thirty-seventh and forty-fourth chapters of the Revised Statutes, and all other laws of this Commonwealth, made or to be made, relating to such corporations.

Corporators.

Name.

Term.

Purpose.

Privileges, restrictions, &c.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 30, 1856.*]

AN ACT to incorporate the Farm Pond Fishing Company, in Edgartown.

Chap. 211

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

SECT. 1. Elijah Norton, Benjamin Davis and Orlando E. Davis, their associates, successors and assigns, are hereby

Corporators.

Name.
Power, &c.

made a corporation by the name of the "Farm Pond Fishing Company, in Edgartown," in Dukes county; and are empowered to close the present outlet of said pond, and to make another outlet at such place as they may select, through the lands of said proprietors, to the Vineyard Sound, for the purpose of creating a herring fishery.

Proprietors may regulate herring fishery.

SECT. 2. The aforesaid corporation are hereby empowered, by seines, nets, or otherwise, to take herring from the waters of the said pond, or the outlet thereof, at such times as a majority of the proprietors, at a legal meeting, may direct.

Penalty for unlawful fishing.

SECT. 3. If any person shall set, stretch or drag, a seine or net in said pond, or outlet thereof, except as above provided, without the consent of said company, he shall forfeit and pay to the use of said company, the sum of ten dollars for each offence, and an additional sum of ten dollars for each and every barrel of herring so taken, to be recovered in any court proper to try the same: *provided, however*, that nothing in this act shall prevent any person from taking any other fish from said pond.

Proviso.

Rights of adjoining owners.

SECT. 4. The present owners of lands adjoining the said pond, or creek, or outlet, shall have each one share only in said fishery; and no one of them shall, by conveyance or descent of his lands, create or cause to be created, an additional number of shares: *provided, however*, that each of the present owners, or his successors or assigns, may divide his original share into parts or fractions.

Proviso.

Existing rights not affected.

SECT. 5. The foregoing provisions of this act shall not affect the existing rights of any person or corporation. [*Approved by the Governor, May 30, 1856.*]

Chap. 212 AN ACT to incorporate the Independent Benevolent Society, in Newburyport.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

SECT. 1. Patrick McGlew, George E. Rogers, Patrick Henry, Francis Waters, Hugh McGlew and Timothy Fay, their associates and successors, are hereby made a corporation by the name of the Independent Benevolent Society, at Newburyport, for benevolent and charitable purposes; with all the powers and privileges, and subject to all the duties and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

Name.
Purpose.

Privileges, restrictions, &c.

Real and personal estate not to exceed \$5,000.

SECT. 2. Said corporation may take and hold real and personal estate, not exceeding the value of five thousand

dollars, for the aforesaid benevolent and charitable purposes.

SECT. 3. This act shall take effect on and after its passage. [*Approved by the Governor, May 30, 1856.*]

AN ACT in addition to an Act to incorporate the Lynn Library Association. *Chap. 213*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The trustees named in the second section of an act to incorporate the Lynn Library Association, passed March twenty-fourth, in the year of our Lord one thousand eight hundred and fifty-five, shall be chosen by the members of the association, at a meeting legally called for that purpose. Trustees, how chosen.

SECT. 2. So much of the above named act as is inconsistent with this act is hereby repealed. Partial repeal.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 30, 1856.*]

AN ACT for the protection of the Fisheries on the South Shore and Bays, on the South Side of the Town of Barnstable and District of Marshpee. *Chap. 214*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. It shall be unlawful to set or draw any seine or dragnet, to take fish, in any of the bays, or in waters within one mile from the beach and shore on the south side of the town of Barnstable and district of Marshpee, within the limits between Succanesset Point and Point Gammon, between the first day of April and the first day of November, in each year. Seine fishing prohibited from April to November.

SECT. 2. The provisions of the sixteenth section of the fifty-fifth chapter of the Revised Statutes, concerning the taking of shell fish in the town of Chatham, shall be, and the same hereby are, extended to the south shore of the town of Barnstable and district of Marshpee. Provisions of R. S. concerning taking shell fish extended.

SECT. 3. Every person violating any provision of this act, shall forfeit and pay, for each offence, not less than twenty nor more than one hundred dollars, to be recovered, together with costs of suit, by an action of tort, brought by any inhabitant of said town or district, in any court competent to try the same. Penalty.

SECT. 4. Any boat, craft or seine, being in the possession or use of any person violating the provisions of this act, Boats, &c., violating, liable to seizure.

at the time and place of such violation, may be seized by any inhabitant of said town or district, and detained, not exceeding forty-eight hours, in order that the same, if need be, may in that time be attached or arrested, by due process of law, for the better security of the payment of the said fines and forfeitures, with cost: *provided, however*, that if the person owning or so in the possession or use of such boat or craft, shall, before being sued therefor, pay said highest named penalty, to either the treasurer of the town of Barnstable or of the district of Marshpee, such boat or craft shall be discharged, with the contents therein; and *provided, also*, that if the person owning, or so in the possession or use of such seine shall, as aforesaid, pay as aforesaid, the said lowest named penalty, such seine shall be discharged in like manner.

Proviso.

Provided, further.

Fines, how disposed of.

SECT. 5. All forfeitures and penalties recovered and received, by virtue of this act, shall go, one-half to the complainant and the other half for the use of the said town, if the complainant shall be an inhabitant thereof, or for the use of said district, if the complainant shall be an inhabitant of said district.

Certain seine fishing lawful.

SECT. 6. Nothing in this act contained shall be construed to prevent the taking of menhaden or mackerel, by the use of seines, within the said waters between Succanisset and Point Gammon, when used *bona fide*, for that purpose, and not for the purpose of taking other fish.

SECT. 7. This act shall take effect from and after its passage. [*Approved by the Governor, May 30, 1856.*]

Chap. 215 AN ACT relating to the Organization of Corporations for Educational, Charitable and Religious Purposes.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Seven or more persons may organize as corporations.

SECT. 1. Any seven or more persons within the Commonwealth who shall, by writing, associate themselves together under any name, by them assumed, for educational, charitable or religious purposes, and shall comply with the provisions of this act, shall, with their successors, be and remain, a body politic and corporate.

Purposes, &c., to be specified.

SECT. 2. The purpose for which such corporation shall be established, and the town or city within which it is established or located, shall be distinctly specified in their articles of association, and it shall not be lawful for such corporation to appropriate its funds to any other purpose.

Privileges, restrictions, &c.

SECT. 3. Any corporation organized in accordance with

the provisions of this act, shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, so far as the said provisions shall be applicable to corporations organized under the provisions of this act.

SECT. 4. Such corporations may hold real and personal estate necessary for the purposes of said organization, to any amount not exceeding two hundred thousand dollars.

Real and personal estate not to exceed \$200,000.

SECT. 5. The real and personal estate of any company, organized under the provisions of this act, shall not be exempted from taxation in any case where any part of the income or profits of the business of such corporation is divided among the members or stockholders of said corporation, or where any portion of said real and personal estate is used or appropriated for other than educational, charitable or religious purposes. [*Approved by the Governor, May 30, 1856.*]

Not exempt from taxation.

AN ACT concerning General Fields.

Chap. 216

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

At all meetings of proprietors of general fields, for adopting rules or regulations as to pasturing their lands, where any proprietor's land is enclosed for his own exclusive benefit, the land so enclosed shall not be valued or reckoned in determining said proprietor's right to vote on questions relating to the pasturing of said proprietor's lands. [*Approved by the Governor, May 30, 1856.*]

Enclosed lands not to be reckoned in voting.

AN ACT concerning Beaches in the Town of Swampscott.

Chap. 217

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. No person shall carry away or remove, by land or water, any sand, stones, gravel, or mud, from the several beaches in the town of Swampscott known as King's Beach, Blaney's Beach and Whale Beach, without permission first obtained from the selectmen of said town, or from some person or persons duly authorized by the said selectmen to grant such permission.

Sand, &c., not to be removed unless by permission, &c.

SECT. 2. Any person who shall offend against any of the provisions of this act, shall forfeit and pay for each offence a sum not exceeding twenty dollars, to be recovered by complaint or indictment in any court of competent jurisdiction.

Penalty for offending.

tion, one-half for the use of the complainant, the other half for the use of the said town.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 30, 1856.*]

Chap. 218

AN ACT to incorporate the Worcester Peat Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

SECT. 1. Edward Earl, William Dickinson and John Field, their associates and successors, are hereby authorized to organize a corporation, by the name of the Worcester Peat Company, for the purpose of digging and preparing peat for fuel, with the right to hold real and personal estate, necessary and convenient therefor, to an amount not exceeding fifty thousand dollars ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the one hundred and thirty-third chapter of the acts of the year one thousand eight hundred and fifty-one, and the several acts in addition thereto.

Name.

Purpose.

Real and personal estate.

Privileges, restrictions, &c.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 30, 1856.*]

Chap. 219

AN ACT to incorporate the Trustees of the Funds of Trinity Church in Bridgewater.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

SECT. 1. Alfred L. Baury, of Boston, Theodore Edson, of Lowell, and John Edson, of Bridgewater, their associates and successors, are hereby made a corporation, by the name of the Trustees of the Trinity Church in Bridgewater ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Name.

Privileges, restrictions, &c.

Corporation may hold funds, &c.

SECT. 2. Said corporation may receive and hold all the funds of said Trinity Church, and such other real and personal estate as may accrue to or for the benefit of said church, by gift, grant, or otherwise, and apply the same in the way and manner which has been, or may be provided, by the donor or donors, and for no other purpose whatever: *provided*, that the whole amount of the aforesaid funds, together with such real and personal estate as may be added thereto, shall not exceed twenty thousand dollars.

Proviso.

SECT. 3. Said trustees shall have power to make and

establish such by-laws as they may judge necessary, to fill all Vacancies. vacancies that may occur in their body, by death, resignation, or otherwise; and at the first meeting of said trustees, or at any annual meeting thereof, the number of trustees may be increased, if judged expedient by those present: Number of trustees. *provided*, that the whole number shall not exceed nine, nor Proviso. be less than three.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, May 30, 1856.*]

AN ACT to incorporate the Nantucket Propeller Company.

Chap. 220

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Edward G. Kelley, Alanson Swain, their asso- Corporators. ciates and successors, are hereby incorporated, for the pur- Purpose. pose of running steam propellers between Nantucket and New York, with a capital stock not exceeding fifty thousand Capital, \$50,000. dollars; with all the rights and privileges, and subject to Privileges, restrictions, &c. all the duties, liabilities and restrictions, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes.

SECT. 2. Said company may organize, by accepting this Organization. enactment, and choosing from its stockholders a president, secretary, and three directors, who shall have the general management of the property of the company.

SECT. 3. Said company may make such by-laws for the By-laws. regulation of its affairs, as may be deemed expedient, and not inconsistent with the laws of this Commonwealth, at any legal meeting called for that purpose.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, May 30, 1856.*]

AN ACT to incorporate the Ladies' Benevolent Society of Newbury.

Chap. 221

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Caroline Withington, Maria I. Little, Eliza F. Corporators. Noyes, Edna M. Woodman, Lucy Coffin, Ann K. Lunt, their associates and successors, are hereby made a corporation, by the name of the Ladies' Benevolent Society of Newbury, for Name. the purpose of taking, holding, investing and distributing Purpose. such funds as they now have, or may hereafter be given them, for the charitable and benevolent objects of their asso-

Privileges, restrictions, &c.

ciation ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Regulations.

SECT. 2. Said corporation shall have power to establish such rules and regulations, for the management of their association, as a majority of the members may, from time to time, determine to be expedient and proper.

Real and personal estate, §10,000.

SECT. 3. Said corporation shall be empowered to hold real and personal estate to an amount not exceeding ten thousand dollars.

SECT. 4. This act shall take effect on and after its passage. [*Approved by the Governor, May 30, 1856.*]

Chap. 222

AN ACT to punish Fraud by the Sale of Adulterated Milk.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Punishment for selling adulterated milk.

If any person or persons shall adulterate, by water or otherwise, milk to be sold in this Commonwealth, or if any person or persons shall sell, or cause to be sold, milk adulterated by water or otherwise, knowing, or having reason to believe the same to be so adulterated, he or they shall be held guilty of a misdemeanor, and on conviction, be fined twenty-five dollars for the first offence, one-half of which shall be paid to the complainant, and for every subsequent offence fifty dollars, one-half of which shall be paid to the complainant, or by imprisonment in the house of correction not less than two nor more than six months. [*Approved by the Governor, May 30, 1856.*]

Chap. 223

AN ACT to apportion and assess a Tax of Five Hundred and Ninety-nine Thousand Nine Hundred and Eighty-two Dollars.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Cities and towns assessed.

SECT. 1. Each city or town hereinafter named within this Commonwealth, shall be assessed and pay the several sums with which they stand respectively charged in the following schedule :—

SCHEDULE.

SUFFOLK COUNTY.

Boston,	One hundred ninety-seven thousand three hundred eighty-two dollars,	\$197,382 00
Chelsea,	Three thousand five hundred twenty-eight dollars,	3,528 00
North Chelsea,	Seven hundred seventy-four dollars,	774 00
		<hr/>
		\$201,684 00

ESSEX COUNTY.

Amesbury,	One thousand one hundred forty-six dollars,	\$1,146 00
Andover,	Three thousand two hundred twenty-two dollars,	3,222 00
Beverly,	Two thousand three hundred ten dollars,	2,310 00
Boxford,	Five hundred fifty-eight dollars,	558 00
Bradford,	Four hundred eight dollars,	408 00
Danvers,	Three thousand four hundred ninety-eight dollars,	3,498 00
Essex,	Six hundred seventy-two dollars,	672 00
Georgetown,	Seven hundred eighty-six dollars,	786 00
Gloucester,	Two thousand six hundred fifty-two dollars,	2,652 00
Groveland,	Four hundred fifty-dollars,	450 00
Hamilton,	Four hundred sixty-two dollars,	462 00
Haverhill,	Two thousand four hundred thirty dollars,	2,430 00
Ipswich,	One thousand one hundred forty-six dollars,	1,146 00
Lawrence,	Five thousand nine hundred forty six dollars,	5,946 00
Lynn,	Four thousand six hundred thirty-eight dollars,	4,638 00
Lynnfield,	Three hundred seventy-two dollars,	372 00
Manchester,	Five hundred sixty-four dollars,	564 00

ESSEX COUNTY—CONTINUED.

Marblehead, . . .	Two thousand two hundred eight dol- lars,	\$2,208 00
Methuen,	One thousand one hundred twenty-two dollars,	1,122 00
Middleton,	Three hundred thirty dollars,	330 00
Newbury,	Six hundred ninety dollars,	690 00
Newburyport, . . .	Five thousand five hundred seventy-four dollars,	5,574 00
Roekport,	Eight hundred twenty-eight dollars, . .	828 00
Rowley,	Four hundred eighty-six dollars,	486 00
Salem,	Thirteen thousand three hundred thirty- two dollars,	13,332 00
Salisbury,	One thousand one hundred ten dollars, .	1,110 00
Saugus,	Five hundred forty-six dollars,	546 00
Topsfield,	Five hundred four dollars,	504 00
Wenham,	Four hundred fourteen dollars,	414 00
West Newbury, . . .	Six hundred thirty-six dollars,	636 00
		<hr/> \$59,040 00

MIDDLESEX COUNTY.

Acton,	Six hundred dollars,	\$600 00
Ashby,	Six hundred twelve dollars,	612 00
Ashland,	Four hundred sixty-eight dollars,	468 00
Bedford,	Three hundred eighty-four dollars,	384 00
Billerica,	Eight hundred eighty-two dollars,	882 00
Boxborough,	Two hundred forty-six dollars,	246 00
Brighton,	One thousand six hundred thirty-two dollars,	1,632 00
Burlington,	Three hundred dollars,	300 00
Cambridge,	Ten thousand three hundred eighty dol- lars,	10,380 00
Carlisle,	Three hundred forty-two dollars,	342 00
Charlestown,	Eight thousand seven hundred eighty- four dollars,	8,784 00
Chelmsford,	One thousand eight dollars,	1,008 00

MIDDLESEX COUNTY—CONTINUED.

Concord, . . .	One thousand two hundred eighty-four dollars, . . .	\$1,284 00
Dracut, . . .	Seven hundred fifty dollars, . . .	750 00
Dunstable, . . .	Three hundred sixty-six dollars, . . .	366 00
Framingham, . . .	One thousand nine hundred sixty-eight dollars, . . .	1,968 00
Groton, . . .	One thousand four hundred forty dollars, . . .	1,440 00
Holliston, . . .	Nine hundred twenty-four dollars, . . .	924 00
Hopkinton, . . .	One thousand twenty-six dollars, . . .	1,026 00
Lexington, . . .	One thousand one hundred eighty-eight dollars, . . .	1,188 00
Lincoln, . . .	Four hundred eighty dollars, . . .	480 00
Littleton, . . .	Four hundred ninety-two dollars, . . .	492 00
Lowell, . . .	Seventeen thousand two hundred eight dollars, . . .	17,208 00
Malden, . . .	One thousand eight hundred dollars, . . .	1,800 00
Marlborough, . . .	One thousand two hundred eighty-four dollars, . . .	1,284 00
Medford, . . .	Two thousand four hundred thirty dollars, . . .	2,430 00
Melrose, . . .	Five hundred forty dollars, . . .	540 00
Natick, . . .	One thousand sixty-two dollars, . . .	1,062 00
Newton, . . .	Three thousand one hundred seventy-four dollars, . . .	3,174 00
Pepperell, . . .	Seven hundred ninety-eight dollars, . . .	798 00
Reading, . . .	One thousand two hundred twelve dollars, . . .	1,212 00
Sherborn, . . .	Five hundred forty dollars, . . .	540 00
Shirley, . . .	Five hundred ninety-four dollars, . . .	594 00
Somerville, . . .	Two thousand sixty-four dollars, . . .	2,064 00
South Reading, . . .	Eight hundred fifty-two dollars, . . .	852 00
Stoneham, . . .	Six hundred twelve dollars, . . .	612 00
Stow, . . .	Six hundred fifty-four dollars, . . .	654 00
Sudbury, . . .	Nine hundred thirty-six dollars, . . .	936 00
Tewksbury, . . .	Six hundred thirty-six dollars, . . .	636 00
Townsend, . . .	Nine hundred dollars, . . .	900 00
Tyngsborough, . . .	Four hundred ninety-two dollars, . . .	492 00

MIDDLESEX COUNTY—CONTINUED.

Waltham, . . .	Two thousand seven hundred eighty-four dollars,	\$2,784 00
Watertown, . . .	Two thousand two hundred ninety-two dollars,	2,292 00
Wayland, . . .	Five hundred sixteen dollars,	516 00
West Cambridge, . . .	One thousand six hundred fifty dollars,	1,650 00
Westford, . . .	Eight hundred twenty-eight dollars,	828 00
Weston, . . .	Seven hundred twenty dollars,	720 00
Wilmington, . . .	Four hundred twenty-six dollars,	426 00
Winchester, . . .	Six hundred eighty-four dollars,	684 00
Woburn, . . .	Two thousand ten dollars,	2,010 00
		<hr/> \$85,254 00

WORCESTER COUNTY.

Ashburnham, . . .	Seven hundred fifty dollars,	\$750 00
Athol, . . .	Seven hundred thirty-two dollars,	732 00
Auburn, . . .	Four hundred thirty-two dollars,	432 00
Barre, . . .	One thousand four hundred eighty-two dollars,	1,482 00
Berlin, . . .	Three hundred six dollars,	306 00
Blackstone, . . .	One thousand eight hundred seventy-two dollars,	1,872 00
Bolton, . . .	Five hundred fifty-eight dollars,	558 00
Boylston, . . .	Four hundred sixty-eight dollars,	468 00
Brookfield, . . .	Six hundred ninety-six dollars,	696 00
Charlton, . . .	Nine hundred ninety-six dollars,	996 00
Clinton, . . .	Nine hundred eighty-four dollars,	984 00
Dana, . . .	Two hundred fifty-two dollars,	252 00
Douglas, . . .	Seven hundred fifty-six dollars,	756 00
Dudley, . . .	Six hundred eighty-four dollars,	684 00
Fitchburg, . . .	Two thousand one hundred ninety dol- lars,	2,190 00
Gardner, . . .	Six hundred eighteen dollars,	618 00

WORCESTER COUNTY—CONTINUED.

Grafton, . . .	One thousand four hundred ninety-four dollars,	\$1,494 00
Hardwick, . . .	Eight hundred fifty-two dollars,	852 00
Harvard, . . .	Seven hundred ninety-two dollars,	792 00
Holden,	Eight hundred thirty-four dollars,	834 00
Hubbardston, . . .	Seven hundred eight dollars,	708 00
Lancaster, . . .	Seven hundred eight dollars,	708 00
Leicester, . . .	One thousand two hundred fifty-four dollars,	1,254 00
Leominster, . . .	One thousand three hundred fifty-six dollars,	1,356 00
Lunenburg, . . .	Six hundred sixty dollars,	660 00
Mendon,	Seven hundred two dollars,	702 00
Milford,	One thousand four hundred fifty-eight dollars,	1,458 00
Millbury,	One thousand ninety-eight dollars,	1,098 00
New Braintree, . . .	Five hundred forty-six dollars,	546 00
North Brookfield, . . .	Seven hundred thirty-eight dollars,	738 00
Northborough, . . .	Six hundred seventy-two dollars,	672 00
Northbridge, . . .	Seven hundred thirty-two dollars,	732 00
Oakham,	Four hundred fifty dollars,	450 00
Oxford,	One thousand thirty-eight dollars,	1,038 00
Paxton,	Three hundred thirty dollars,	330 00
Petersham,	Eight hundred twenty-two dollars,	822 00
Phillipston,	Three hundred ninety-six dollars,	396 00
Princeton,	Six hundred forty-eight dollars,	648 00
Royalston,	Seven hundred ninety-two dollars,	792 00
Rutland,	Five hundred fifty-two dollars,	552 00
Shrewsbury,	Eight hundred forty dollars,	840 00
Southborough,	Six hundred forty-two dollars,	642 00
Southbridge,	One thousand two hundred dollars,	1,200 00
Spencer,	Nine hundred twelve dollars,	912 00
Sterling,	Eight hundred forty dollars,	840 00

WORCESTER COUNTY—CONTINUED.

Sturbridge, . . .	Nine hundred dollars,	\$900 00
Sutton,	One thousand fifty-six dollars, . . .	1,056 00
Templeton, . . .	Nine hundred forty-eight dollars, . . .	948 00
Upton,	Six hundred ninety dollars,	690 00
Uxbridge,	One thousand one hundred eighty-eight dollars,	1,188 00
Warren,	Seven hundred thirty-two dollars, . . .	732 00
Webster,	Eight hundred seventy-six dollars, . . .	876 00
West Boylston, . . .	Five hundred ninety-four dollars, . . .	594 00
West Brookfield, . . .	Five hundred seventy dollars,	570 00
Westborough, . . .	Eight hundred forty dollars,	840 00
Westminster,	Eight hundred four dollars,	804 00
Winchendon,	One thousand fourteen dollars,	1,014 00
Worcester,	Eleven thousand two hundred eight dol- lars,	11,208 00
		\$59,262 00

HAMPSHIRE COUNTY.

Amherst,	One thousand two hundred forty-two dollars,	\$1,242 00
Belchertown,	Nine hundred thirty dollars,	930 00
Chesterfield,	Four hundred fourteen dollars,	414 00
Cummington,	Four hundred twenty dollars,	420 00
Easthampton,	Four hundred fifty-six dollars,	456 00
Enfield,	Four hundred seventy-four dollars, . . .	474 00
Goshen,	One hundred ninety-eight dollars, . . .	198 00
Granby,	Four hundred twenty-six dollars, . . .	426 00
Greenwich,	Two hundred sixty-four dollars,	264 00
Hadley,	Nine hundred forty-eight dollars, . . .	948 00
Hatfield,	Seven hundred fourteen dollars,	714 00

HAMPSHIRE COUNTY—CONTINUED.

Middlefield, . . .	Three hundred twenty-four dollars, . . .	\$324 00
Northampton, . . .	Two thousand six hundred twenty-eight dollars, . . .	2,628 00
Norwich, . . .	Two hundred seventy dollars, . . .	270 00
Pelham, . . .	Two hundred fifty-eight dollars, . . .	258 00
Plainfield, . . .	Three hundred twelve dollars, . . .	312 00
Prescott, . . .	Two hundred seventy dollars, . . .	270 00
South Hadley, . . .	Seven hundred fifty-six dollars, . . .	756 00
Southampton, . . .	Four hundred twenty-six dollars, . . .	426 00
Ware, . . .	One thousand two hundred forty-eight dollars, . . .	1,248 00
Westhampton, . . .	Two hundred forty-six dollars, . . .	246 00
Williamsburg, . . .	Six hundred ninety-six dollars, . . .	696 00
Worthington, . . .	Four hundred seventy-four dollars, . . .	474 00
		<u>\$11,394 00</u>

HAMPDEN COUNTY.

Blandford, . . .	Five hundred seventy-six dollars, . . .	\$576 00
Brimfield, . . .	Seven hundred eight dollars, . . .	708 00
Chester, . . .	Four hundred ninety-two dollars, . . .	492 00
Chicopee, . . .	Three thousand six hundred six dollars, . . .	3,606 00
Granville, . . .	Four hundred thirty-eight dollars, . . .	438 00
Holland, . . .	One hundred fifty-six dollars, . . .	156 00
Holyoke, . . .	One thousand nine hundred thirty-two dollars, . . .	1,932 00
Longmeadow, . . .	Eight hundred forty-six dollars, . . .	846 00
Ludlow, . . .	Four hundred ninety-two dollars, . . .	492 00
Monson, . . .	Nine hundred ninety dollars, . . .	990 00
Montgomery, . . .	One hundred seventy-four dollars, . . .	174 00
Palmer, . . .	One thousand three hundred thirty-two dollars, . . .	1,332 00
Russell, . . .	One hundred ninety-two dollars, . . .	192 00

HAMPDEN COUNTY—CONTINUED.

Southwick, . . .	Five hundred fifty-eight dollars, . . .	\$558 00
Springfield, . . .	Six thousand six hundred fifty-four dol- lars, . . .	6,654 00
Tolland, . . .	Two hundred twenty-two dollars, . . .	222 00
Wales, . . .	Two hundred forty dollars, . . .	240 00
West Springfield, . . .	One thousand six hundred eighty dol- lars, . . .	1,680 00
Westfield, . . .	One thousand six hundred ninety-eight dollars, . . .	1,698 00
Wilbraham, . . .	Nine hundred sixty dollars, . . .	960 00
		\$23,946 00

FRANKLIN COUNTY.

Ashfield, . . .	Five hundred seventy-six dollars, . . .	\$576 00
Bernardston, . . .	Four hundred two dollars, . . .	402 00
Buckland, . . .	Two hundred eighty-two dollars, . . .	282 00
Charlemont, . . .	Four hundred eight dollars, . . .	408 00
Coleraine, . . .	Six hundred ninety-six dollars, . . .	696 00
Conway, . . .	Seven hundred thirty-eight dollars, . . .	738 00
Deerfield, . . .	One thousand eighty-six dollars, . . .	1,086 00
Erving, . . .	One hundred eighty dollars, . . .	180 00
Gill, . . .	Three hundred six dollars, . . .	306 00
Greenfield, . . .	One thousand one hundred forty dol- lars, . . .	1,140 00
Hawley, . . .	Three hundred six dollars, . . .	306 00
Heath, . . .	Two hundred eighty-eight dollars, . . .	288 00
Leverett, . . .	Three hundred six dollars, . . .	306 00
Leyden, . . .	Two hundred twenty-two dollars, . . .	222 00
Monroe, . . .	Seventy-two dollars, . . .	72 00
Montague, . . .	Five hundred four dollars, . . .	504 00
New Salem, . . .	Four hundred fifty-six dollars, . . .	456 00
Northfield, . . .	Seven hundred eighty dollars, . . .	780 00

FRANKLIN COUNTY—CONTINUED.

Orange, . . .	Seven hundred thirty-eight dollars, . . .	\$738 00
Rowe, . . .	Two hundred forty dollars, . . .	240 00
Shelburne, . . .	Five hundred four dollars, . . .	504 00
Shutesbury, . . .	Two hundred eighty-two dollars, . . .	282 00
Sunderland, . . .	Three hundred forty-two dollars, . . .	342 00
Warwick, . . .	Four hundred eighty dollars, . . .	480 00
Wendell, . . .	Four hundred twenty dollars, . . .	420 00
Whately, . . .	Four hundred eighty dollars, . . .	480 00
		\$12,234 00

BERKSHIRE COUNTY.

Adams, . . .	One thousand nine hundred thirty-eight dollars, . . .	\$1,938 00
Alford, . . .	Two hundred thirty-four dollars, . . .	234 00
Becket, . . .	Three hundred seventy-eight dollars, . . .	378 00
Cheshire, . . .	Five hundred sixty-four dollars, . . .	564 00
Clarksburg, . . .	One hundred eight dollars, . . .	108 00
Dalton, . . .	Four hundred seventy-four dollars, . . .	474 00
Egremont, . . .	Four hundred eighty-six dollars, . . .	486 00
Florida, . . .	One hundred sixty-eight dollars, . . .	168 00
Great Barrington, . . .	One thousand three hundred eighty dollars, . . .	1,380 00
Hancock, . . .	Three hundred seventy-two dollars, . . .	372 00
Hinsdale, . . .	Four hundred forty-four dollars, . . .	444 00
Lanesborough, . . .	Five hundred forty-six dollars, . . .	546 00
Lee, . . .	One thousand ninety-two dollars, . . .	1,092 00
Lenox, . . .	Five hundred seventy dollars, . . .	570 00
Monterey, . . .	Two hundred fifty-two dollars, . . .	252 00
Mount Washington, . . .	One hundred eight dollars, . . .	108 00

BERKSHIRE COUNTY—CONTINUED.

New Ashford,	One hundred two dollars,	\$102 00
New Marlborough,	Five hundred eighty-two dollars,	582 00
Otis,	Three hundred seventy-eight dollars,	378 00
Peru,	Two hundred sixteen dollars,	216 00
Pittsfield,	Two thousand seven hundred eighty-four dollars,	2,784 00
Richmond,	Three hundred ninety-six dollars,	396 00
Sandisfield,	Five hundred thirty-four dollars,	534 00
Sheffield,	One thousand one hundred seventy dollars,	1,170 00
Savoy,	Two hundred twenty-eight dollars,	228 00
Stockbridge,	Seven hundred seventy-four dollars,	774 00
Tyringham,	Two hundred seventy dollars,	270 00
Washington,	Two hundred seventy dollars,	270 00
West Stockbridge,	Six hundred eighteen dollars,	618 00
Williamstown,	One thousand thirty-two dollars,	1,032 00
Windsor,	Three hundred thirty-six dollars,	336 00
		\$18,804 00

NORFOLK COUNTY.

Bellingham,	Five hundred fifty-two dollars,	\$552 00
Braintree,	One thousand one hundred forty-six dollars,	1,146 00
Brockline,	Four thousand nine hundred eighty-six dollars,	4,986 00
Canton,	One thousand three hundred ninety-eight dollars,	1,398 00
Cohasset,	Seven hundred eighty-six dollars,	786 00
Dedham,	Three thousand six dollars,	3,006 00
Dorchester,	Six thousand five hundred seventy dollars,	6,570 00
Dover,	Three hundred eighteen dollars,	318 00
Foxborough,	Seven hundred eight dollars,	708 00
Franklin,	Six hundred ninety-six dollars,	696 00

NORFOLK COUNTY—CONTINUED.

Medfield, . . .	Four hundred eighty dollars, . . .	\$480 00
Medway, . . .	Nine hundred ninety dollars, . . .	990 00
Milton, . . .	One thousand six hundred ninety-eight dollars, . . .	1,698 00
Needham, . . .	Eight hundred seventy dollars, . . .	870 00
Quincy, . . .	Two thousand two hundred forty-four dollars, . . .	2,244 00
Randolph, . . .	One thousand eight hundred seventy-two dollars, . . .	1,872 00
Roxbury, . . .	Thirteen thousand two hundred twenty-four dollars, . . .	13,224 00
Sharon, . . .	Five hundred eighty-two dollars, . . .	582 00
Stoughton, . . .	One thousand two hundred forty-eight dollars, . . .	1,248 00
Walpole, . . .	Eight hundred forty-six dollars, . . .	846 00
Weymouth, . . .	One thousand eight hundred seventy-eight dollars, . . .	1,878 00
Wrentham, . . .	One thousand two hundred dollars, . . .	1,200 00
		<hr/>
		\$47,293 00

BRISTOL COUNTY.

Attleborough, . . .	One thousand two hundred twenty-four dollars, . . .	\$1,224 00
Berkley, . . .	Three hundred dollars, . . .	300 00
Dartmouth, . . .	Two thousand three hundred ten dollars, . . .	2,310 00
Dighton, . . .	Five hundred seventy-six dollars, . . .	576 00
Easton, . . .	Eight hundred four dollars, . . .	804 00
Fairhaven, . . .	Three thousand one hundred sixty-eight dollars, . . .	3,168 00
Fall River, . . .	Six thousand two hundred thirty-four dollars, . . .	6,234 00
Freetown, . . .	Six hundred six dollars, . . .	606 00
Mansfield, . . .	Four hundred sixty-eight dollars, . . .	468 00
New Bedford, . . .	Thirteen thousand eight hundred ninety dollars, . . .	13,890 00
Norton, . . .	Seven hundred sixty-eight dollars, . . .	768 00
Pawtucket, . . .	One thousand seventy-four dollars, . . .	1,074 00
Raynham, . . .	Five hundred fifty-two dollars, . . .	552 00

BRISTOL COUNTY—CONTINUED.

Rehoboth, . . .	Seven hundred sixty-two dollars, . . .	\$762 00
Seekonk, . . .	Seven hundred sixty-two dollars, . . .	762 00
Somerset, . . .	Four hundred ninety-two dollars, . . .	492 00
Swansey, . . .	Five hundred seventy dollars, . . .	570 00
Taunton, . . .	Four thousand twenty-six dollars, . . .	4,026 00
Westport, . . .	One thousand five hundred dollars, . . .	1,500 00
		\$40,086 00

PLYMOUTH COUNTY.

Abington, . . .	One thousand seven hundred thirty-four dollars, . . .	\$1,734 00
Bridgewater, . . .	One thousand two hundred ninety dollars, . . .	1,290 00
Carver, . . .	Three hundred ninety dollars, . . .	390 00
Duxbury, . . .	One thousand one hundred fifty-eight dollars, . . .	1,158 00
East Bridgewater, . . .	Nine hundred twelve dollars, . . .	912 00
Halifax, . . .	Two hundred eighty-eight dollars, . . .	288 00
Hanover, . . .	Six hundred dollars, . . .	600 00
Hanson, . . .	Four hundred twenty dollars, . . .	420 00
Hingham, . . .	One thousand seven hundred twenty-two dollars, . . .	1,722 00
Hull, . . .	One hundred twenty dollars, . . .	120 00
Kingston, . . .	Eight hundred eighty-two dollars, . . .	882 00
Marshfield, . . .	Seven hundred two dollars, . . .	702 00
Middleborough, . . .	One thousand eight hundred six dollars, . . .	1,806 00
North Bridgewater, . . .	One thousand two hundred forty-two dollars, . . .	1,242 00
Pembroke, . . .	Four hundred ninety-two dollars, . . .	492 00
Plymouth, . . .	Two thousand six hundred twenty-two dollars, . . .	2,622 00
Plympton, . . .	Three hundred sixty-six dollars, . . .	366 00
Rochester, . . .	One thousand three hundred twenty-six dollars, . . .	1,326 00
Scituate, . . .	Seven hundred fifty dollars, . . .	750 00

PLYMOUTH COUNTY—CONTINUED.

South Scituate, . . .	Seven hundred ninety-two dollars, . . .	\$792 00
Wareham, . . .	One thousand fifty dollars, . . .	1,050 00
West Bridgewater, . . .	Five hundred fifty-eight dollars, . . .	558 00
		<u>\$21,222 00</u>

BARNSTABLE COUNTY.

Barnstable, . . .	One thousand six hundred ninety-two dollars, . . .	\$1,692 00
Brewster, . . .	Three hundred ninety-six dollars, . . .	396 00
Chatham, . . .	Five hundred ninety-four dollars, . . .	594 00
Dennis, . . .	Nine hundred twenty-four dollars, . . .	924 00
Eastham, . . .	Two hundred twenty-eight dollars, . . .	228 00
Falmouth, . . .	One thousand twenty-six dollars, . . .	1,026 00
Harwich, . . .	Six hundred seventy-eight dollars, . . .	678 00
Orleans, . . .	Four hundred eight dollars, . . .	408 00
Provincetown, . . .	One thousand one hundred sixteen dollars, . . .	1,116 00
Sandwich, . . .	One thousand four hundred seventy-six dollars, . . .	1,476 00
Truro, . . .	Four hundred seventy-four dollars, . . .	474 00
Wellfleet, . . .	Four hundred twenty-six dollars, . . .	426 00
Yarmouth, . . .	Eight hundred twenty-eight dollars, . . .	828 00
		<u>\$10,266 00</u>

DUKES COUNTY.

Chilmark, . . .	Four hundred seventy-four dollars, . . .	\$474 00
Edgartown, . . .	Seven hundred thirty-eight dollars, . . .	738 00
Tisbury, . . .	Six hundred thirty dollars, . . .	630 00
		<u>\$1,842 00</u>

NANTUCKET COUNTY.

Nantucket, . . .	Four thousand six hundred fifty dollars,	\$4,650 00
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RECAPITULATION.

Suffolk County, . .	Two hundred one thousand six hundred eighty-four dollars,	\$201,684 00
Essex County, . . .	Fifty-nine thousand forty dollars,	59,040 00
Middlesex County, .	Eighty-five thousand two hundred fifty-four dollars,	85,254 00
Worcester County, .	Fifty-nine thousand two hundred sixty-two dollars,	59,262 00
Hampshire County, .	Fourteen thousand three hundred ninety-four dollars,	14,394 00
Hampden County, . .	Twenty-three thousand nine hundred forty-six dollars,	23,946 00
Franklin County, . .	Twelve thousand two hundred thirty-four dollars,	12,234 00
Berkshire County, . .	Eighteen thousand eight hundred four dollars,	18,804 00
Norfolk County, . .	Forty-seven thousand two hundred ninety-eight dollars,	47,298 00
Bristol County, . . .	Forty thousand eighty-six dollars,	40,086 00
Plymouth County, . .	Twenty-one thousand two hundred twenty-two dollars,	21,222 00
Barnstable County, .	Ten thousand two hundred sixty-six dollars,	10,266 00
Dukes County,	One thousand eight hundred forty-two dollars,	1,842 00
Nantucket County, . .	Four thousand six hundred fifty dollars,	4,650 00
		\$599,982 00

Treasurer shall
issue warrants
to selectmen, &c.

SECT. 2. The treasurer of this Commonwealth shall forthwith send his warrant, with a copy of this act, directed to the selectmen or assessors of each city or town, taxed as aforesaid, requiring them, respectively, to assess the sum so charged, according to the provisions of the seventh chapter of the Revised Statutes, and to add the amount of such tax to the amount of town and county taxes to be assessed by them, respectively, on each city or town.

When payable.

SECT. 3. The treasurer, in his said warrant, shall require the said selectmen or assessors, to pay, or to issue their several warrant or warrants, requiring the treasurers of their several cities or towns to pay, to said treasurer of the Com-

monwealth, on or before the first day of December, one thousand eight hundred and fifty-six, the sums against said cities or towns, respectively, in this act contained; and the selectmen or assessors, respectively, shall return a certificate of the names of such treasurers, with the sum which each may be required to collect, to the said treasurer of the Commonwealth, some time before the first day of October next.

Names of treasurers to be returned.

SECT. 4. If the amount due from any city or town as provided in this act, shall not have been paid to the treasurer of the Commonwealth within the time specified, then the said treasurer shall notify the treasurer of said delinquent city or town, who shall pay into the treasury of the Commonwealth, in addition to the tax, such further sum as would be equal to one per cent. per month during such delinquency, dating on and after the first day of December next.

One per cent. per month, additional, for delinquency.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

AN ACT concerning the Election of Representatives in Congress.

Chap. 224

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The third section of the sixth chapter of the Revised Statutes, is hereby so amended as that the elections therein provided to be held, shall be held on the Tuesday next after the first Monday in November, in the year one thousand eight hundred and fifty-six, and thence afterwards, biennially, on the Tuesday next after the first Monday in November. [*Approved by the Governor, May 31, 1856.*]

Elections, when held.

AN ACT to protect the Fishery in Pleasant Bay.

Chap. 225

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The town of Orleans, at any legal town meeting called for the purpose, may make and enact such laws as they may, from time to time, deem expedient, to protect and preserve the fishery in Pleasant Bay, and all the inlets therefrom within the limits of said town of Orleans: *provided, always,* that no law, made as above, shall infringe upon the laws of the Commonwealth. [*Approved by the Governor, May 31, 1856.*]

Town may enact laws to protect fishery.

Providio

Chap. 226 AN ACT to incorporate the Boston and New Orleans Steamship Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

SECT. 1. James M. Beebe, William Dwight, George B. Blake, William Thomas, Andrew T. Hall, Lewis W. Tappan, their associates and successors, are hereby made a corporation, by the name of the Boston and New Orleans Steamship Company, for the purpose of navigating the ocean by steam; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Name.

Purpose.

Privileges, restrictions, &c.

May build and navigate steamships, &c.

SECT. 2. The said company are hereby authorized to build, purchase, hold and convey, one or more steamships, and may therewith navigate the ocean, between Boston and the southern ports of the United States, and Cuba, and any islands, possessions or provinces of European powers in the West Indies, and may enter into such contracts with other persons as they may deem expedient, to run steamships between any such port or ports, and any other port or ports whatsoever.

Real estate, \$200,000.

Personal property, \$1,000,000.

SECT. 3. The said company may hold real estate not exceeding in value two hundred thousand dollars, and personal property to an amount not exceeding one million dollars.

Number and amount of shares.

SECT. 4. The number of shares into which the capital stock of said company shall be divided, and the amount of each share, shall be fixed by the by-laws; and the said company shall have power to assess, from time to time, upon such shares, such sums of money as may be deemed necessary to accomplish the objects of said company; but no share shall be assessed for a greater sum or sums in the whole, than the amount of such shares, so determined and fixed as aforesaid.

Duration.

Act void unless, &c.

SECT. 5. The said corporation shall continue for the term of thirty years; but if the said corporation shall not, within two years from the passing of this act, have been organized and have laid and collected an assessment or assessments to the amount of ten per cent. upon the capital stock, and shall not, within three years from the passage of this act, have built and equipped at least two steamships for the purposes of said company, and shall not use the same for the purposes in this act expressed, then this act shall become null and void.

No shares issued under par.

SECT. 6. No shares in the capital stock of said corporation shall be issued for a less sum or amount than the par value of the shares first issued.

SECT. 7. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

AN ACT to authorize the Selectmen of Eastham to build a Bridge across Boat-Meadow River. Chap. 227

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The selectmen of the town of Eastham, in the county of Barnstable, are hereby authorized and empowered to construct a solid earth bridge across the stream known as Boat-Meadow River, in said town, where now exists a wooden bridge ; said selectmen shall, in all respects, proceed as is now provided by law for laying out and constructing highways. May construct solid earth bridge.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

AN ACT to incorporate the Ladies' Howard Society, of Nantucket. Chap. 228

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Mary M. Watson, Mary P. Hussey, Clara G. Allen, their associates and successors, are hereby made a corporation by the name of the Ladies' Howard Society of Nantucket, for the purpose of taking, holding, investing and distributing such funds as they now have, or may hereafter be given them for the charitable objects of their association ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes. Corporators.
Name.
Purpose.
Privileges, restrictions, &c.

SECT. 2. Said corporation shall have power to establish such rules and regulations for the management of their association, as a majority of the members may, from time to time, determine to be expedient and proper. Rules and regulations

SECT. 3. Said corporation shall be authorized to hold real and personal estate to an amount not exceeding twenty-five thousand dollars. Real and personal estate, \$25,000.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

Chap. 229 AN ACT in addition to an Act concerning the Vermont and Massachusetts Railroad Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Terms and conditions of mortgage, &c.

SECT. 1. That the mortgage mentioned in the act concerning the Vermont and Massachusetts Railroad Company, approved by the governor on the twenty-first day of March, in the year one thousand eight hundred and fifty-six, and thereby authorized to be given by said Vermont and Massachusetts Railroad Company, to secure their bonds, may include and convey to the trustees, to be named in said mortgage, all the franchise, rights and privileges which are now held and enjoyed by said corporation, in this Commonwealth; and said mortgage may be on such terms and conditions, and with such powers to the mortgagees, of operating or selling the said road and property mortgaged, as to the stockholders and directors may seem expedient.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

Chap. 230 AN ACT authorizing the County Commissioners of Essex County to lay out a Highway and to cause a Bridge to be built across Bass River, in the town of Beverly.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Bridge across Bass River, in Beverly.

The county commissioners for the county of Essex are hereby empowered, if in their opinion the common convenience and necessity require the same, to lay out a highway, and cause to be built, a bridge across Bass River, in the town of Beverly, from some point on the westerly shore, striking between the houses of John Porter and Benjamin Smith, to some point on the easterly shore, striking between Federal Street and Railroad Avenue; and said bridge shall be furnished with a draw, suitable, in the opinion of said commissioners, for the passage of vessels usually navigating said river above the place where said bridge shall be built; and said commissioners, in carrying into effect the provisions of this act, shall conform to the existing laws relating to laying out highways: *provided*, said bridge can be built without expense to the county of Essex. [*Approved by the Governor, May 31, 1856.*]

Proviso.

AN ACT to incorporate the Phillips Wharf Company, in Salem.

Chap. 231

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Stephen C. Phillips, J. Willard Peele, James W. Cheever, their associates and successors, are hereby made a corporation, by the name of the Phillips Wharf Company, with power to purchase and hold, in fee simple or otherwise, any part or the whole of the estate extending from Derby Street in Salem, to Salem Harbor, and now owned by said Stephen C. Phillips, with all the privileges and appurtenances to the same belonging, and all rights of every kind now vested in said Stephen C. Phillips as owner of such wharf. And said corporation may construct docks and wharves ; lay vessels within and at the side thereof, and receive dockage and wharfage therefor ; erect buildings, lay out streets and passage ways, and improve and manage said property for mercantile purposes, in such manner as to them shall seem expedient, and may sell and convey the same or any part thereof. Said corporation may also purchase such other real estate as may be expedient for the beneficial enjoyment of their property, and may contract with railroad corporations relative to the transportation of passengers and merchandise : *provided*, that nothing herein contained shall authorize the said corporation to infringe upon the legal rights of any person, or to build any wharf or other structure on the premises which is not now authorized by law.

SECT. 2. Said corporation may, at any legal meeting, agree upon the number of shares, not exceeding three thousand, into which their stock shall be divided, which shares shall be transferable in a book, to be kept by the clerk of the corporation for that purpose ; may, from time to time, assess upon the stockholders such sums of money, not exceeding in the whole one hundred dollars on each share, as may be necessary for the purchase, improvement and management of their estate ; and may, in case any stockholder shall neglect to pay any such assessment, cause such of the shares of such stockholder as may be sufficient therefor to be sold, in such manner as the said corporation by their by-laws may determine.

SECT. 3. Said corporation shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, contained in the forty-fourth chapter of the Revised Statutes.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

Chap. 232

AN ACT in addition to an Act relative to Superintendents of Schools.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Appointment of superintendent.

SECT. 1. The first section of the three hundred and fourteenth chapter of the acts of the year eighteen hundred and fifty-four, shall, as applied to cities, be construed to mean that the several cities, by an ordinance of the city government, may require the school committee to appoint a superintendent of public schools, annually.

No compensation to school committees, unless, &c.

SECT. 2. In any city which has heretofore passed an ordinance requiring the school committee to appoint a superintendent of public schools, annually, the school committee in such city shall hereafter receive no compensation; and, in any city which may hereafter pass such an ordinance, the school committee in such city shall receive no compensation after the passage of such ordinance, unless in either case the city shall otherwise expressly provide.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

Chap. 233

AN ACT authorizing the County Commissioners of the County of Bristol to lay out a Highway, and construct a Bridge over Skunk Creek in the Town of Somerset.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Bridge across Skunk Creek, in Somerset.

SECT. 1. The county commissioners of the county of Bristol, are hereby authorized and empowered to lay out a highway and construct a bridge over Skunk Creek, so called, on Taunton River, in the town of Somerset, in said county, at such place as the public convenience and necessity require: *provided*, that in laying out said highway and constructing said bridge, said county commissioners shall, in all respects, proceed according to the laws regulating the laying out and constructing of public highways.

Constructed in three years.

SECT. 2. Said highway shall be laid out, and said bridge constructed and open for public travel, within three years from the passage of this act: *provided*, that the county commissioners of the county of Bristol shall deem that public necessity requires the construction of said highway and bridge.

Proviso.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

AN ACT determining the Boundary Line between Danvers and South Danvers. *Chap. 234*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The dividing line between Danvers and South Danvers, determined by the commissioners appointed by his excellency the governor, under the first section of an act entitled, "An act to incorporate the town of South Danvers," passed on the eighteenth day of May, in the year eighteen hundred and fifty-five, and reported to the governor by said commissioners, is declared to be, and the same shall constitute, the dividing line between said towns of Danvers and South Danvers. Dividing line established.

SECT. 2. This act shall take effect on and after its passage. [*Approved by the Governor, May 31, 1856.*]

AN ACT making provision for the Unfunded Debt of the Commonwealth. *Chap. 235*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The treasurer of the Commonwealth is hereby authorized and directed to issue scrip or certificates of debt, in the name and behalf of the Commonwealth, and under his signature and the seal of the Commonwealth, to an amount not exceeding three hundred thousand dollars, bearing an interest of six per cent. per annum, payable semi-annually, on the first days of June and December, with interest warrants attached thereto, signed by the treasurer; which scrip, or certificates of debt, shall be redeemable as follows, viz.: one-third part thereof on the first day of June, eighteen hundred and sixty-two, one-third part thereof on the first day of June, eighteen hundred and sixty-four, and one-third part thereof on the first day of June, eighteen hundred and sixty-six; and shall be countersigned by the governor of the Commonwealth, and be deemed a pledge of the faith and credit of the Commonwealth, for the redemption thereof; and the treasurer may, under the direction of the governor and council, dispose of any portion of said scrip, at any price not less than its par value. Treasurer authorized to issue \$300,000 of scrip.

SECT. 2. The funds arising from the disposal of the said scrip, shall be applied to the payment of the unfunded debt now existing against the Commonwealth, and to the supply of any deficiency which may arise in the current income of the present year, to meet the current expenses of the same. Funds, how to be applied.

SECT. 3. The first proceeds of the sale or disposal of the Proceeds of sale of

Back Bay lands, interest of the Commonwealth in the lands and flats of the
how applied. Back Bay, so called, to the amount of three hundred thousand dollars, shall be invested and held by the treasurer, under the direction of the governor and council, and applied to the redemption of the scrip issued by virtue of the provisions of this act.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

Chap. 236

AN ACT to incorporate the Massachusetts School of Agriculture.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

SECT. 1. Marshall P. Wilder, of Dorchester, Benjamin V. French, of Braintree, George W. Lyman, of Waltham, Seth Sprague, of Duxbury, Moses Newell, of Newbury, Richard S. Fay, of Lynn, Samuel Hooper, of Boston, and their successors and associates, are hereby constituted a corporation by the name of the Trustees of the Massachusetts School of Agriculture, for the purpose of holding, maintaining and conducting, an experimental farm and school thereupon, with all needful buildings, library, apparatus and appurtenances, for the promotion of agricultural and horticultural art within this Commonwealth; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Name.

Purpose.

Privileges, restrictions, &c.

Real and personal estate, \$500,000.

SECT. 2. The said corporation may hold, by bequest, gift, purchase or otherwise, real and personal estate not exceeding the sum of five hundred thousand dollars.

Life membership.

SECT. 3. Any person may become a corporator for life in said institution, upon the payment of one hundred dollars to the treasurer thereof, who shall, upon such payment, issue to him a certificate to that effect.

Vacancy of trustee, how filled.

SECT. 4. Upon the death or resignation of any trustee in said corporation, or upon his incapacity to perform the duties thereof, by reason of mental or other infirmity, or by reason of prolonged absence from the Commonwealth, the surviving or remaining members thereof, together with the corporators for the time being, shall have power to choose a successor at any meeting duly notified for that purpose, and five members shall constitute a quorum, unless the number shall be reduced by death or otherwise, below that number, in which event three shall constitute a quorum for that purpose.

SECT. 5. In the event of a dissolution of said corporation, by the voluntary act of said trustees and corporators, at any time, the real and personal property belonging to the corporation shall devolve upon, and belong to, the Commonwealth, to be held by the same, and to be disposed of as it may see fit, in the advancement of agricultural education. [*Approved by the Governor, May 31, 1856.*]

Disposal of property in case of dissolution.

AN ACT authorizing the Troy and Greenfield Railroad Company to change location. *Chap. 237*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Troy and Greenfield Railroad Company are hereby authorized to change their location on the main route, at such places as will, in the opinion of the chief engineer, improve the line of the road, shorten the same, and diminish the cost of construction : *provided*, the *termini* of said road shall not be changed.

Location changed

Proviso.

SECT. 2. Such changes, as are made under the provisions of the first section of this act, shall be filed in the clerk's office, for the counties of Franklin and Berkshire, within one year from the time they are made.

Location filed.

SECT. 3. All owners of land, over which this railroad has been located, shall have the right to claim and have their damages assessed, any time within three years from the passage of this act. [*Approved by the Governor, May 31, 1856.*]

Damages assessed within three years.

AN ACT confirming the Union of the Charles River Railroad Company and the New York and Boston Railroad Company, and extending the time for locating and constructing the same. *Chap. 238*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The union of the several companies forming the New York and Boston Railroad Company, in conformity with the provisions of the one hundred and fifth chapter of the acts of eighteen hundred and fifty-five, is hereby confirmed, and the several acts heretofore passed, regarding the Charles River Branch and the Charles River Railroad, are confirmed to said united New York and Boston Railroad Company.

Union of railroads confirmed.

SECT. 2. The times within which said company are required to locate and construct their roads, are hereby extended one year.

Time for locating extended one year.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

Chap. 239

AN ACT in relation to the Assessment and Collection of Taxes.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Taxes to be a lien on mortgaged real estate, &c.

SECT. 1. Taxes assessed on real estate hereafter mortgaged, shall, in all cases, constitute a lien thereon for two years after they are committed to the collector; and said taxes, with the incidental costs and expenses, may be levied by sale in the same manner, and with the same effect, as is now by law provided in cases of real estate not mortgaged: *provided, however,* that before such sale, any mortgagee may have the right to pay the said taxes and necessary charges and expenses, and upon such payment shall have a lien therefor, which may be enforced as above named.

Proviso.

Rights of mortgagee if tax is not paid by mortgagor.

SECT. 2. Whenever the owner of real estate subject to mortgage, shall, for three months after demand of payment, refuse or neglect to pay the taxes legally assessed upon the same, the collector may demand the taxes due thereon, of any owner or holder of any mortgage thereon; and if said taxes shall be paid thereupon by him, the same, with ten per cent. interest and all necessary intervening charges, shall constitute a lien upon such real estate, which lien may be enforced as provided in the first section of this act: and, in cases where by the conditions of the mortgage the mortgagor is to pay the taxes, the said mortgage shall not be redeemed without the consent of the holder or owner thereof, in writing, unless and until payment is made of the sum for which said lien shall exist. In all such cases of payment of taxes by the owner or holder of a mortgage, the collector shall, if so required, deliver to the person so paying a receipt therefor, duly acknowledged by him, which, if recorded in the registry of deeds for the county where the real estate is situated, within three days thereafter, shall be notice to all persons of such lien.

Liability of mortgagee on taking possession, &c.

SECT. 3. Any mortgagee, upon taking possession of any real estate by force of his mortgage, shall be liable to pay all taxes then due, and the costs and expenses of any sale that shall have taken place; and when any such taxes, costs and expenses shall be so paid by him,—in cases where by the conditions of the mortgage, the mortgagor is to pay the taxes,—there shall be a lien therefor to said mortgagee, with ten per cent. interest thereon, which lien may be enforced

as named in the first section of this act; a receipt for such taxes may be required by the collector, acknowledged and recorded, as named in the second section of this act, and with like effect.

SECT. 4. In all cases of sale of real estate for the payment of taxes assessed thereon, the supreme judicial court shall have equity powers: *provided*, relief be sought within five years from such sale.

S. J. Court to have equity powers.

SECT. 5. No sale of real estate for taxes, shall affect the rights of any person not taxable therefor, unless a written demand is first made upon said person, by the collector, for the payment of said taxes.

Same not to affect the rights, &c.

SECT. 6. Chapter two hundred and thirteen of the statutes of the year eighteen hundred and forty-nine, and chapter two hundred and eighteen of the statutes of the year eighteen hundred and fifty, are hereby repealed. [*Approved by the Governor, May 31, 1856.*]

Acts repealed.

AN ACT to incorporate the Children's Home and Home for Aged Females, in Roxbury. *Chap. 240*

Be it enacted by the Senate, and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. James Ritchie, John Rogers, Charles K. Dillaway and James Waldoek, their associates and successors, are hereby made a corporation by the name of the Children's Home and Home for aged Females, in Roxbury, for the purpose of providing for destitute children and aged females, and affording a temporary home for the same; with all the powers, and subject to all the duties and liabilities set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECT. 2. Said corporation may take and hold real estate, not exceeding the value of twenty thousand dollars, and personal estate not exceeding the value of thirty thousand dollars, for the aforesaid charitable purposes.

Real and personal estate not to exceed \$50,000.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

AN ACT in aid of the Lebanon Springs Aqueduct Company.

Chap. 241

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Lebanon Springs Aqueduct Company, (a corporation created by act of the legislature of the State of New York,) is hereby authorized and empowered to improve

May improve certain water, &c.

the streams and springs of water on the west side of Hancock Mountain, lying in the town of Hancock, in this Commonwealth, for the purpose of supplying the inhabitants of the village of Lebanon Springs, in the town of New Lebanon and State of New York, with good and wholesome water: *provided*, that nothing in this section shall authorize said company to divert water from any spring or pond on the summit of said mountain, which supplies any stream on the east side of said mountain, or divert any water from any stream, brook or pond, on the east side of said mountain.

Proviso.

SECT. 2. Said aqueduct company is hereby authorized to convey the water from said streams and springs in underground aqueducts, to the State line, near said village of Lebanon Springs.

Damages, how assessed and paid.

SECT. 3. All damages which may be sustained by reason of the taking by said corporation of any of the ponds or brooks aforementioned, or of the water thereof, or the water-rights connected therewith, or of diverting any portion of said water from its natural channel into other channels, or of erecting and maintaining any dam or reservoir, or digging up any land, street, road or highway, and entering upon the same for laying, repairing and maintaining pipes, conduits, hydrants and other apparatus necessary thereto, shall be paid by the said corporation to the individual or corporation injured, which damages shall be assessed in the same manner as is provided in the twenty-fourth chapter of the Revised Statutes with regard to highways. The said aqueduct company shall also have power to lay down and repair any under-ground aqueduct constructed under the authority conferred by this act, along any highway or street in the town of Hancock, leading to Lebanon Springs: *provided*, that in so doing they shall not impede or obstruct the travel on the same.

Power to lay aqueduct.

Proviso.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, May 31, 1856.*]

Chap. 242 AN ACT to repeal "An Act to incorporate the Tremont Gas-Light Company."

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Act repealed.

An act to incorporate the Tremont Gas-Light Company, passed on the fourteenth day of February, in the year one thousand eight hundred and forty-six, is hereby repealed. [*Approved by the Governor, May 31, 1856.*]

AN ACT extending the time for the Construction of the Agricultural Branch Railroad. *Chap. 243*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The time allowed to the Agricultural Branch Railroad Company, to construct its railroad, is hereby extended one year. [Approved by the Governor, May 31, 1856.] Time for construction extended one year.

AN ACT to enable the Proprietors of Certain Lands in Northampton to protect the same against Inundation. *Chap. 244*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Whenever five or more of the several proprietors of the lands described in the following section shall desire the construction of such dikes, mounds or other works or erections, as shall better protect said lands against inundation and overflow, and enable the said proprietors the more securely to improve the same, they may form themselves into a corporation in the manner hereinafter mentioned. Proprietors of lands may form corporation.

SECT. 2. The lands to which this act shall extend, are situated in the town of Northampton, in the county of Hampshire, in the vicinity of Maple and Fruit Streets, in said Northampton, and are located within the following limits, to wit: Beginning at or near the southerly end of South Street Bridge, and thence running along the right bank of Mill River to the embankment made by the Connecticut River Railroad; thence along said embankment to a point about fifteen hundred and thirty feet below the Connecticut River Railroad Bridge over Mill River; thence across the meadows from said embankment to Fort Hill, at a point about six hundred and sixty feet from said embankment; thence along the base of Fort Hill to the place of beginning. Lands described.

SECT. 3. Upon the application of any five or more of such proprietors, as aforesaid, to any justice of the peace, he shall issue his warrant to one of the applicants, directing him to call a meeting of all the proprietors of said lands, in the manner prescribed by the second and third sections of the forty-third chapter of the Revised Statutes. Justice may call a meeting.

SECT. 4. The said proprietors, when assembled, pursuant to such notice, may proceed to organize themselves as a corporation: *provided*, a majority of all the proprietors, whether present or absent, shall agree and vote so to do; and they may thereupon choose a clerk, treasurer, three or more Proprietors may organize. Proviso.

assessors, and a collector, all of whom shall continue in office until removed by said proprietors, or until others are chosen in their stead; and the clerk and assessors shall be sworn to the faithful discharge of their duty; and said proprietors may also choose such committees and other officers, as they shall think necessary for the management of their affairs, and may agree upon and direct the manner of calling future meetings.

Clerk and assessors sworn.

SECT. 5. In furtherance of the objects of this act, the said proprietors are authorized to construct and maintain, anywhere within the limits defined in the second section, any dike, mound, or other work or erection, which shall be deemed by them suitable and sufficient; and they may, from time to time, raise money for that purpose, and for defraying their common charges, and for managing their affairs as a corporation.

Proprietors may raise money, &c.

SECT. 6. All moneys duly voted to be raised, pursuant to the last section, shall be assessed by the assessors of said corporation upon the several proprietors, having regard to the quantity, quality and situation of each person's part of the lands, to the extent of his legal or equitable interest in the same, and to the benefit that he will derive from the works constructed; and any proprietor, who shall think himself over-rated in such assessment, may apply for relief to the county commissioners for Hampshire county, who shall hear and determine the case, and whose judgment thereon shall be final.

Assessments, &c.

SECT. 7. The clerk of the proprietors shall issue his warrant to the collector, requiring him to collect all sums assessed by said assessors, as well as all sums adjudged by said county commissioners to be paid by any person applying to them for relief, (their said judgment having been first certified to the said clerk,) and to pay over the same to the treasurer, or other proper officer, according to the order of the proprietors; and the collector shall collect the said sums in the same manner as collectors of towns are authorized to collect town taxes.

Assessments, &c., how collected.

SECT. 8. The said proprietors, when organized, as aforesaid, may adopt any suitable corporate name, and may sue and be sued as a corporation, for any matter concerning their common property, and may appear, prosecute and defend, by their agent or attorney, duly authorized.

May sue and be sued, &c.

SECT. 9. If, in the construction of any dike, mound, or other work or erection contemplated by this act, it shall be necessary to locate, abut, or build the same upon the lands of any person with whom said proprietors are unable to

Amount of damages in certain cases.

adjust the terms of compensation therefor, it shall nevertheless be lawful for the said proprietors to proceed to locate, abut and build the same on said lands; and the dissenting party may thereupon apply to the county commissioners for Hampshire county, who shall determine the amount of such compensation; and either party, if dissatisfied with such determination, may have the same assessed by a jury to be summoned, and all proceedings before them conducted, and their verdict returned and enforced, in the manner provided in the twenty-fourth chapter of the Revised Statutes, for the relief of parties aggrieved by the assessment of damages for lands taken for highways. [*Approved by the Governor, June 3, 1856.*]

Either party may appeal.

AN ACT for the better protection of the Public at Railroad Crossings.

Chap. 245

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

If the mayor and aldermen of any city, or the selectmen of any town, wherein any turnpike, highway, street or town-way, which is crossed by any railroad upon the same grade, is situated, shall be of opinion, in any particular case, that the safety of the public would be more effectually secured by the stationing of a flag-man, than by the erection of a gate at such railroad crossing, as provided for by the eightieth section of the thirty-ninth chapter of the Revised Statutes, the said mayor and aldermen, or the said selectmen, may, in writing, request the corporation to which said railroad belongs to station a flag-man at such crossing, who shall display a flag whenever any locomotive engine or train of cars passes at such crossing; and if said corporation shall refuse or neglect so to do, the said mayor and aldermen, or selectmen, may apply to the county commissioners to decide upon the reasonableness of such request; and if said commissioners, after due notice, and hearing the parties, shall decide that the stationing of such flag-man is necessary for the security of the public, the said railroad corporation shall comply with said decision, and shall pay the costs of the application; and if the said commissioners shall be of opinion that the stationing of such flag-man is not required as aforesaid, the said mayor and aldermen or selectmen, shall be liable to pay all the costs of their application. [*Approved by the Governor, June 3, 1856.*]

Public safety at railroad crossings.

County commissioners may decide.
Costs, by whom paid.

Chap. 246 AN ACT to secure Uniformity of Fees in the Courts of this Commonwealth.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Fees established. The charge for blank writs, the entry fee of the clerk, and the term fee of the prevailing party, shall hereafter be the same in the supreme judicial court and the court of common pleas, as they now are in the superior court for the county of Suffolk. [*Approved by the Governor, June 3, 1856.*]

Chap. 247 AN ACT establishing Boards of Trustees for the State Lunatic Hospitals, and in addition to the Acts concerning Lunatic Hospitals.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Board of trustees. SECT. 1. The government of each of the State Lunatic Hospitals at Worcester, Taunton and Northampton, shall be vested in a board of five trustees, to be appointed and commissioned by the governor, with the advice and consent of the council. When one year shall have expired after the first appointment of a board under the provisions of this act, one trustee shall be appointed and commissioned annually; and for this purpose the place of the first named trustee in the board shall thereafter be annually vacated, and the name of the trustee appointed to fill the vacancy shall be placed at the bottom of the list.

Visiting hospitals. SECT. 2. There shall be a thorough visitation of the several hospitals, at least once a month, by two of the trustees of their respective institutions, a quarterly visitation by a majority of the board, and a semi-annual visitation by the whole board.

Law to apply to hospital at Northampton. SECT. 3. All the provisions of chapter forty-eight of the Revised Statutes, for the government of the State Lunatic Hospital at Worcester, and of subsequent acts relating to lunatics, except as herein provided, so far as the same can be made applicable, are hereby extended and made applicable to the management of the hospital for the insane established at Northampton.

Powers of courts. SECT. 4. The justices of the supreme judicial court, or of the court of common pleas, at any term held within and for the county of Hampshire, shall have the same powers with reference to the hospital at Northampton, that are now given to them at any term held within and for the county of Worcester with reference to the hospital at Worcester.

SECT. 5. The trustees to be appointed under this act, for

the hospital for the insane established at Northampton, shall, when said hospital is completed and ready to receive patients, give notice thereof to his excellency the governor, who shall thereupon direct the removal from the hospitals at Worcester and Taunton, of such number of their inmates as he may deem proper; and at any time hereafter the governor shall cause to be removed from either hospital to another, such inmates as circumstances or the necessities of the case may, in his judgment, require.

Governor shall direct removal of inmates, &c.

SECT. 6. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

Inconsistent acts repealed.

SECT. 7. This act shall take effect from and after its passage. [*Approved by the Governor, June 3, 1856.*]

AN ACT in addition to the several Acts for the protection of the Fisheries in Ipswich River. Chap. 248

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. When any person is found violating the provisions of any law for the protection of the fisheries in Ipswich River, it shall be lawful for any constable of the towns mentioned in said acts, to seize and detain any boat, vessel, or nets, used by such persons as are found violating said laws for the protection of fisheries in Ipswich River, and hold such boat, vessel or nets, until the lowest fine named in those acts shall be paid, or good and sufficient bond, with surety, shall be given, to abide the judgment of the court in that case.

Constables may seize boats, &c., for unlawful fishing.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, June 3, 1856.*]

AN ACT in relation to the Salary of the District-Attorney of the Middle District. Chap. 249

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The annual salary of the district-attorney for the Middle District, shall hereafter be one thousand dollars, to be paid to him out of the treasury of the State, in quarterly payments, and in that proportion for any part of a quarter.

Salary established.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, June 3, 1856.*]

Chap. 250 AN ACT in addition to an Act to incorporate the Williston Seminary.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Williston Seminary is hereby authorized to hold real and personal estate, of the value of thirty thousand dollars, in addition to the amount which it is now authorized to hold, and the income of the same shall be applied to the same purposes as are specified in the act of incorporation of said seminary.

May hold \$30,000 additional real and personal estate.

Income applied.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, June 3, 1856.*]

Chap. 251 AN ACT to incorporate the Massachusetts Homœopathic Medical Society.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Samuel Gregg, William Wesselhoeft, Luther Clark, George Russell, Milton Fuller, John A. Tarbell, David Thayer, their associates and successors, physicians, be, and they hereby are, made a corporation by the name of the Massachusetts Homœopathic Medical Society; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Privileges, restrictions, &c.

Real and personal estate, \$50,000.

Members not enrolled in militia.

Admission of members.

Proviso.

SECT. 2. Said corporation may hold real and personal estate to the amount of fifty thousand dollars.

SECT. 3. The members of said society shall not be liable to be mustered or enrolled in the militia of this Commonwealth.

SECT. 4. The members of said society, or such of their officers or members as they shall appoint, shall have full power and authority to examine all candidates for membership, concerning the practice of specific medicine and surgery: *provided*, said candidates shall sustain a good moral character, and shall present letters, testimonial of their qualifications, from some legally authorized medical institution; and if, upon such examination, the said candidates shall be found qualified for membership, they shall receive the approbation of the society.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, June 3, 1856.*]

AN ACT concerning Insurance Companies.

Chap. 252

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

GENERAL SECTIONS.

SECT. 1. All insurance companies that have been, or may hereafter be, incorporated in this Commonwealth, may exercise the powers, and shall be subject to the duties and liabilities provided in this act, and in the forty-fourth chapter of the Revised Statutes, so far as may be consistent with the provisions of their respective charters.

Powers and duties of insurance companies.

SECT. 2. The first meeting of any insurance company, shall be called by a notice, signed by one or more persons named in the act of incorporation, setting forth the time, place, and purposes of the meeting; and such notice shall, seven days at least before the meeting, be delivered to each member, or published in some newspaper of the county in which the company may be established, or if there be no newspaper in the county, then in some newspaper in an adjoining county.

First meetings, how called.

SECT. 3. All companies shall give notice in writing, to the secretary of the Commonwealth, of the acceptance of their charter, and organization under the same, within one year from the date thereof, or the same shall be void.

Notice to secretary of Commonwealth.

SECT. 4. No company shall deal or trade in buying or selling goods, wares, merchandise or other like property, excepting such articles as may have been insured by such company, and losses are claimed thereon by the insured.

Not to deal in goods, &c.

SECT. 5. It shall not be lawful for any insurance company, incorporated by this Commonwealth, to do business under any other name, style, designation or title, than is expressed in its charter; and every company doing business in this Commonwealth, shall conduct the same in the proper and corporate name of said company, and not by various and different names; and the policies and contracts of insurance issued by any company shall be headed or entitled only by the corporate name or title of said company; and all insurance companies that have been, or that hereafter may be, incorporated in this Commonwealth, shall have their office in the town or city specified in said charter; and in case such companies establish agencies in other towns or cities, all signs, cards, pamphlets and advertisements, exhibited or issued by them, shall specify the town or city where the company they represent is located.

Business to be done under corporate name only.

SECT. 6. All mortgages on real estate, held by any insur-

Lands mortgaged, &c., may be sold on execution.

ance company, shall be liable to be attached, taken and sold on execution, in the manner provided in the fifty-second, fifty-third and fifty-fourth sections of the thirty-sixth chapter of the Revised Statutes, in respect to mortgages held by banks. And the secretary shall do the duties therein required of cashiers and clerks.

Liable to taxation.

SECT. 7. Every insurance company, chartered in this Commonwealth, shall be liable to be taxed by any general law taxing similar insurance companies; and the directors shall, when required, furnish to the legislature, or to a committee thereof, or to the insurance commissioners, a statement of their affairs, and submit to an examination on oath, concerning the same; every such statement to be first signed by the president and secretary, and under oath declared by them to be correct, according to their best knowledge and belief.

Directors to furnish sworn statement.

Annual returns made to commissioners.

SECT. 8. Every insurance company doing business in this Commonwealth shall, before the fifteenth day of November, annually, transmit to the insurance commissioners of this Commonwealth, a statement of its affairs, on the first day of said month, in the form appended to this act, adapted to the business done by such companies respectively; said statement to be signed and sworn to by the president and secretary. And the insurance commissioners shall, annually, in the month of September, furnish to the insurance companies in this Commonwealth, and to the agents of foreign insurance companies, doing business in this Commonwealth, two or more printed copies of the form of return to be made by them. Insurance companies, chartered beyond the limits of the United States, and doing business in this Commonwealth, shall make return of their standing on the first day of June, in each year, agreeably to the form required of companies doing a similar business in this Commonwealth; the said returns to be made to the insurance commissioners on or before the fifteenth day of November, annually; said returns to be verified and sworn to, before some consul or vice-consul of the United States, by two or more of the principal officers of such insurance company; and the insurance commissioners shall furnish to the agents of companies chartered beyond the limits of the United States, two or more printed copies of the form of return to be made by them, whenever applied to by the agents of any such companies.

Commissioners to furnish form of returns.

Penalty for neglecting to make returns.

Every insurance company doing business in this Commonwealth, neglecting to make the returns as required under this act, shall forfeit one hundred dollars for each and every day's neglect, and every company that shall wilfully make

false statements shall be liable to a fine of not less than five hundred dollars, nor more than five thousand dollars, to be recovered in the name of the Commonwealth; and all insurance companies now incorporated in this Commonwealth, and all foreign companies, doing business therein, shall, in their next return after the passage of this act, conform to the provisions thereof, and the returns made to the insurance commissioners in November next, shall conform to the required table. The insurance commissioners, in connection with their annual report, shall prepare an abstract of all the returns made to them by the companies chartered by, or doing business in, this Commonwealth, and the agents' statements, or returns, and cause the same to be printed, and furnished to the legislature in the month of January, annually. All fines and forfeitures collected under this law, shall be paid into the treasury of the Commonwealth.

Commissioners to
prepare abstract.

SECT. 9. All insurance companies incorporated by, and doing business under the laws of this Commonwealth, may, at any annual or special meeting thereof, adopt any rules for conducting their business, which shall not be repugnant to the provisions of their respective charters, or to the laws of the Commonwealth: *provided*, that it shall not be lawful for any insurance company, incorporated in this Commonwealth, by any condition, stipulation or restriction, in the policy or by-laws, to designate the county in which any suit at law or in equity shall be brought against said company, or limit the time of commencing such suit to a less period than two years from the time the right of said suit or action shall accrue: *provided, also*, that all matters proposed to be acted upon at any meeting, shall be specified in the call for the same. No life insurance company shall issue policies insuring fire or marine risks. The secretary and treasurer of such insurance companies shall give bond for the faithful discharge of their respective duties, in such sum as may be required by the directors.

Companies may
adopt rules, &c.

Proviso.

Life companies
not to take fire
or marine risks.

Treasurer and
secretary to
give bond.

SECT. 10. The insurance commissioners, if, in their opinion the same be expedient, are hereby authorized to calculate, or cause to be calculated by a suitable person appointed by them, the existing value, on some day in every year designated by them, of all outstanding policies of life insurance in companies authorized to make insurance on lives in this Commonwealth; and such calculated values shall be included by the insurance commissioners in their annual report to the legislature. And by way of compensation for the making of said calculation, the insurance companies shall pay an amount equal to one cent on every thousand dollars insured

Commissioners to
return value of
outstanding life
policies, if deemed
expedient.

by them on lives. All companies making insurance upon lives, or their agents, in this Commonwealth, shall furnish to the commissioners, or to the person employed by them, an attested statement, certified in the same manner in which their returns are required to be certified; which statement shall set forth in form the number, date and amount of each policy, and the age of the insured, at the period of its date; or in lieu of furnishing such statement, the companies shall admit the person who is to make the calculation, into their offices, and shall pay his necessary expenses thither and back: in default whereof the said companies, or their agents, shall be liable to the same penalties imposed for neglect to make returns.

INSURANCE COMPANIES HAVING SPECIFIC CAPITALS.

SECT. 11. Every insurance company with a specific capital, shall annually choose, by ballot, from the stockholders of the company, resident within this Commonwealth, not less than five directors, who shall hold office for one year, and until others are chosen and duly qualified in their stead. Such directors, when elected and notified, shall, before they are qualified to act, declare their acceptance of the same, in writing, to the secretary of the company. Not less than four directors shall constitute a quorum; and all questions shall be decided by a majority of those present. Vacancies in any office may be filled by the directors, or by a meeting of stockholders called for that purpose. Proxies may be authorized in writing, each share to be entitled to one vote; but no stockholder shall be entitled to cast over thirty votes. The record of the votes, whether cast in person or by proxy, made by the secretary or clerk of any insurance company, shall be evidence of all such elections.

SECT. 12. The directors shall, annually, by ballot, choose a president and secretary and such other officers as the rules direct; the president shall be chosen from the board of directors; the president and secretary shall annually be sworn to the faithful discharge of their duties; the president shall preside at all meetings of the stockholders and directors, but when absent, a president *pro tem.* may be chosen, as the meeting may determine. The secretary shall keep a true record of the votes of the stockholders, and of the directors; a true list of the stockholders, and number of shares standing in the name of each; a true record of all transfers of shares; and shall keep, or cause to be kept, a record of all policies issued by the company, and of all assignments and transfers thereof; and shall keep such

Choice of directors.

Quorum.
Vacancies.

Proxies.

Choice of president and secretary.

Sworn.

Secretary to keep record.

additional books as the president and directors may require.

SECT. 13. Special meetings of the stockholders may be called by the directors, when they think proper; and they shall call such meetings on the written application of the owners of one-fifth part of the capital, or of twenty stockholders; said stockholders setting forth in their application the purposes of the meeting. Special meetings.

SECT. 14. The capital stock, unless otherwise specially provided for by the act of incorporation, shall be paid in, in cash, within twelve months from the date of the charter; and no company shall issue a policy until the whole amount of its capital shall have been subscribed and paid in, in cash, unless otherwise provided in the charter of such company, nor until a certificate from the insurance commissioners shall have been obtained, authorizing such company to issue policies. And the insurance commissioners shall examine the same, and a majority of the directors shall make oath that such money has been paid in by the stockholders towards payment of their respective shares, and not for any other purpose, and that it is intended that the same shall remain as the capital of the company, to be invested as required by the provisions of this act. Nor in any case shall certificates of full shares be issued, until the whole capital shall have been paid in; and the said capital stock shall be invested in the stocks of the United States, or of this Commonwealth, or of any city or town thereof, or in any of the banks thereof, or in any railroads thereof, which have been completed and paid for, the franchises of which are not pledged or mortgaged, or in bonds of railroad corporations in this Commonwealth, or may be loaned on mortgages of real estate therein, or on pledges of any of the stocks or bonds named in this section: *provided*, that no insurance company shall own more than one-fourth of the capital of any one bank, nor shall any such company invest in, or loan on, the stocks and bonds both included, in any one railroad company, more than one-tenth of its own capital, nor in the aggregate, shall the investment in, and loan on, all railroad property, exceed one-fifth of its own capital. Not more than one-half of its capital shall be loaned on mortgage of real estate, and not more than one-tenth part of the capital of said insurance company, actually existing, shall be invested in a single mortgage. And if any investment or loan be made in any manner not authorized by this act, the directors making, or authorizing the same to be made, shall be personally liable to the stockholders for any loss occasioned Capital, when paid in, and how invested. Proviso.

thereby. Nothing contained in this act shall compel any insurance company, chartered by this Commonwealth, now doing business, to change any investment that was originally legally made.

Risks to be taken. **SECT. 15.** Companies thus organized may insure vessels, freights, goods, money, effects, money lent on bottomry or respondentia, against the perils of the sea, and other perils usually insured against by marine insurance; dwelling-houses and other buildings, merchandise and other personal property, against loss by fire, according to their respective charters. But no stock company shall hold on any one risk, a sum exceeding one-tenth part of the capital existing, and surplus, after deducting all losses, claims, liabilities, and debts due from the company. All policies shall be signed by the president and secretary: in the absence of the president by two directors, and in the absence of the secretary by a secretary *pro tem*.

Limitation of risks.

Policies, how to be signed.

Directors to furnish annual statement.

SECT. 16. At each annual meeting of the company, the directors shall cause to be furnished to the stockholders, a statement of the condition of the company, and in making dividends, shall not consider any part of the premium money divisible, until the risks for which the same was paid have absolutely been terminated. But in making up their annual statement, they shall be required to charge themselves only with such portions of the cash or notes received on policies which are unexpired, as would be required to reinsure all outstanding risks. When the capital shall have been reduced by losses, or from any other cause, the amount thereafter to be taken on any one risk shall correspondingly be reduced to the limitation in the fifteenth section of this act. If the directors allow more to be insured than is authorized by this section, on any one risk, they shall be liable for any loss on any amount exceeding one-tenth the existing capital. If any company shall be under liability for losses actually sustained, equal to the capital, and the president and directors knowing it, shall make insurance or assent thereto, they shall be personally liable for the loss, if any take place under such insurance. And whenever the charter permits the capital stock to be paid by instalments, if said capital be lessened by losses before all instalments are paid in, each stockholder shall be liable for the instalments unpaid on his shares at the time of such loss; and no dividend shall be made until the capital is restored to its original amount.

Liability of president and directors.

Liability of stockholders.

Annual returns to assessors.

SECT. 17. Every company shall, annually, between the first and tenth day of May, make return by mail or otherwise, to the assessors of every city or town in this Common-

wealth, in which any stockholder resides, of the names of such stockholders, the number of shares belonging to each on the first day of May, with the par value and the cash market value of the shares, as far as they can ascertain the same, deducting the value of real estate as assessed to the corporation; and every company shall make return of the number of shares of corporate stocks of all kinds held by them as collateral security for the debt or liability of any person residing in such town or city on the first day of May, with the names of the persons, number of shares, and par value of each kind. Any company neglecting to make the returns provided in this section, or that shall wilfully make false returns, shall forfeit, for each offence, not less than fifty, nor more than one thousand dollars, to the use of the city or town in which such stockholder may reside; to be recovered in the name of such city or town.

Penalty for neglect.

MUTUAL MARINE AND MUTUAL FIRE AND MARINE INSURANCE COMPANIES.

SECT. 18. All mutual marine and mutual fire and marine insurance companies which may hereafter be established by a law of this Commonwealth, shall be subject to the provisions embraced in the twenty-third, twenty-fourth, and twenty-fifth sections of this act, relating to mutual fire insurance companies, and shall, before commencing business, have an agreement substantially as follows, viz.:—

Election of officers, &c.

“The subscribers, members of the insurance company, severally agree to pay said company, on demand, the sums set against our names; or such part thereof as may be called in for the use of the company, in money or promissory notes.”

Form of agreement.

Policies of insurance may be issued by such company, whenever two hundred thousand dollars, if the company is in Boston, or one hundred thousand dollars, if the company is in any other city or town in the Commonwealth, has been subscribed and paid in cash, or notes payable on time not exceeding twelve months, and the president and a majority of the directors shall have certified that the subscribers are known to them, and they believe them solvent and able to pay their subscriptions; and a copy of the same shall have been deposited with the insurance commissioners, and approved by them. All subsequent subscriptions shall be made and certified in like manner; and a certified copy shall, annually, on or before the first day of November, be filed with said commissioners.

When policies may be issued.

SECT. 19. Each subscriber during the term of his sub-Membership.

scription, and each person insured, shall be a member of the company; but those insured shall not remain members after the termination of the risk and the payment of the loss due, if any, thereon.

How subscrip-
tions shall be
held and used.

SECT. 20. The subscriptions provided for in the eighth section shall constitute a permanent fund, to be used, when necessary, for payment of the losses and expenses of the company; but shall not be applied to pay the premiums for insurance effected by the subscribers. The subscription notes as they mature, shall be paid in, or other notes substituted therefor, so that the amount of the original fund shall not be reduced. The subscription notes, or any *pro rata* portion thereof, may be cancelled whenever the net profits of the business shall be sufficient to replace the same; and such profits shall then be invested as prescribed in section fourteen of this act, thereafter to be held as the permanent fund in place of said notes. All payments made on subscription notes, and all cash funds not required for the current uses of the company, shall also be invested as prescribed in section fourteen of this act. If any subscriber shall fail to pay his subscription, and it shall be proved that the president or any director, knowingly certified falsely in regard to such subscriber, such person shall be liable to the company for such sum as the subscriber fails to pay.

Limit of single
risks.

SECT. 21. No company shall hold, on any one risk, more than ten per cent. of the subscriptions and invested funds, not pledged, and premium notes on risks absolutely terminated, after deducting therefrom all losses and claims for losses, or cash received for risks not terminated, and all debts. Whenever, by means of open policies or indorsements thereon, more than ten per cent. is so at risk, the directors shall, as soon as may be, obtain reinsurance for the amount of such excess. If the company shall, at any time, be liable for losses beyond the amount of their cash fund, legal investments, premium notes received from risks terminated, and subscription notes, the president and directors, knowing the condition of the company, shall be personally liable for all losses occurring on insurance effected during such state of the company.

Liability of presi-
dent and direct-
ors for over in-
surance.

President to make
monthly state-
ment.

SECT. 22. The directors shall require the president to make a monthly statement to them of the assets and liabilities of the company; which statement shall be entered upon the records of the directors, or in a book kept for that purpose. Every mutual marine and mutual fire and marine insurance company, chartered by and now doing business in this Commonwealth, shall, from and after the first day of

January, eighteen hundred and fifty-seven, conform to the provisions of this act.

MUTUAL AND STOCK AND MUTUAL FIRE INSURANCE COMPANIES.

SECT. 23. Every mutual fire insurance company shall annually elect, by ballot, not less than seven directors, citizens of this Commonwealth, and after the first election, members of the company; and they shall manage and conduct the business thereof. Every person insured by the company shall be a member, and no one member shall be allowed more than five votes in person. Proxies may be authorized in writing; but all such proxies shall not be legal unless dated within six months previous to the meeting of said company, at which the same may be used; and no individual shall be allowed, by proxy or otherwise, to cast more than twenty votes; and no paid officer of the company shall vote as proxy for any absent member.

SECT. 24. The directors of every mutual fire insurance company shall annually choose by ballot one of their number as president; they shall also choose a secretary and treasurer; these officers shall annually be sworn to the faithful discharge of their duties, and a record of the oath shall be entered upon the books of the company. The secretary shall keep true records of the meetings, both of the corporation and the directors, and of all votes passed by them; and record, or cause to be recorded, a copy of all policies issued by such company; and also, all assignments or transfers of the same, when properly assented to; the record of which policies, assignments and transfers, shall be open to the inspection of any persons interested therein.

SECT. 25. Not less than five directors shall constitute a quorum, and all questions shall be decided by a majority of those present. Vacancies in any office may be filled by the directors until the next annual election, or by a new election at a meeting to be called for that purpose. Special meetings of the members may be called when ordered by the directors, and the directors shall call such meetings when requested, in writing, to do so, by any twenty members.

SECT. 26. The directors of every corporation which shall become a member of any mutual company, may authorize one or more of the stockholders of such corporation to represent the same in all meetings of the said insurance company; and such representatives shall vote and be eligible to the office of director in the company; and any member of a mutual insurance company may be a competent witness in all cases, civil or criminal, in which the company is a party or interested.

Assessments

SECT. 27. Whenever the just claims against a mutual fire insurance company exceed the funds, the directors shall assess such sums as may be necessary, upon the members, in proportion to their premium and deposit, no member being liable to pay, in addition to his premium and deposit, more than a sum equal to his said premium and deposit; and in case of classification of risks, said assessment shall be made upon such premium and deposit as were given upon hazards associated with the property upon which losses have occurred. And whenever sufficient property of the company cannot be found to satisfy an execution issued against them, and the company have property belonging to the period assessed, and the proceeds of which can be applied to satisfy such execution, and the directors neglect to pay the same, or neglect, for thirty days after the rendition of judgment, to make an assessment and deliver the same to the treasurer for collection, or to apply such assessment, when collected, to the payment of the execution, in either of these cases, the directors shall be personally liable for the amount of the execution.

Liability of directors.

Liability of treasurer.

SECT. 28. If the treasurer of any mutual company unreasonably neglect to collect an assessment, made by order of the directors, and to apply the same to the payment of the claims for which it was made, he shall, in his private capacity, be liable for the amount of the assessment to the party having such claims against the company; and he may repay himself for such payments out of any money afterwards received for the company on account of said assessment.

When directors are liable, creditors may sue.

SECT. 29. Whenever the directors of a mutual company shall be liable to pay any execution against the company, the creditor may recover, by a bill in equity, in the supreme judicial court, or by an action at law against the directors; and any director, who shall pay any execution against the company, for which he is personally liable, may have a suit at law, with equitable remedies, for contribution against any of the directors for their proportion, and also a suit at law, with equitable remedies, against the company, or the individual members thereof, who may be liable therefor, for money so paid for them: *provided*, that no member shall be liable to pay, in addition to his premium and deposit, more than a sum equal to his said premium and deposit.

Remedy against corporation.

Proviso.

Members to share in profits or loss, on expiration of policy.

SECT. 30. Every member of a mutual company shall, at the expiration of his policy, have a share in the profits of the company during the time his policy was in force, after all expenses, liabilities and losses then incurred, have been deducted, in proportion to the sums by him paid on account

of said policy, according to the contract or policy. And he shall, in like manner, be subject to pay any assessments which may be laid by such company, for the payment of the losses and expenses of the company, in accordance with the charter and laws regulating such companies.

SECT. 31. No policy shall be issued for a term exceeding seven years, nor on the mutual plan, for a greater amount than three-fourths of the value of the property insured; and every policy made by such company shall create a lien on the personal property, and on any building insured, and the land under the same, for securing the payment of the deposit note, or other liabilities, or any sums assessed upon the same: *provided*, the extent of the liability, and the intention of the company to rely upon the lien, shall be set forth on the face of the policy. And that upon the alienation of the property to a *bona fide* purchaser, the lien shall cease as to all losses which shall thereafter occur, unless the policy shall be continued by consent of the purchaser and the company. And if it shall become necessary to resort to such lien for the payment of the liabilities secured thereby, the treasurer shall demand payment from the insured, and also from the tenant in possession, or the person having possession of the personal property, setting forth, in writing, the sum due; and, in case of non-payment, the company may sue and levy the execution upon the property or estate. The officer making the levy may sell the whole or any part thereof, by auction, and apply the proceeds in the same manner as in the sale of an equity of redemption of real estate; and the owner shall have the same right to redeem any real estate thus sold, as in case of the sale of an equity of redemption, upon execution.

SECT. 32. The directors of mutual fire insurance companies may divide the property insured into not exceeding four classes. The policy shall designate the class, and the assessments shall be made upon premiums and deposits belonging to the class in which the loss occurs: *provided*, that no policy shall be issued in a separate class, until five hundred thousand dollars shall be subscribed to be insured in that class on one date, and the same entered on the books of the company. The expenses of the company, not strictly applicable to either class, shall be apportioned to each class according to the amount of premiums paid by that class for the same period; and in a division of the funds and returns of premiums and deposits, each member shall be entitled to receive his proportion of the profits belonging to the class in which he was insured; and no money belonging to any one class,

Policies issued for seven years, and to create a lien. &c.

Proviso.

Proceedings to enforce lien.

Policies to designate class of property insured.

Proviso.

received either as premium or assessment in said class, shall be used to pay losses or expenses, or other liability, of any other class.

Assessments and statements to be recorded.

SECT. 33. All mutual fire insurance companies shall, upon making an assessment, keep a record of the vote passed by the directors for making such assessment, together with a statement of the condition of the company at the time such assessment shall be made; and when an assessment is ordered, the whole amount to be raised, and the particular losses, or other liabilities of which said amount consists, shall be stated; the said statement shall also separately show the amount of cash on hand, of deposit notes, and of liabilities subject to such assessment. The statement as above shall be recorded in a book kept for that purpose, and shall be signed by the directors voting for such assessment. Said statement shall be open to the inspection of any member of the company, with the right to take a copy of the same; and any person who is liable to assessment shall be considered a member of the company. It shall not be legal for any company to collect an assessment made after the passage of this act, until such statement and record shall have been made. No assessment shall be laid by any company on any member whose policy shall have expired or been cancelled for the period of two years. Companies dividing their risks and insuring in separate classes, shall make a statement as above, for each and every class in which an assessment is ordered.

Statement subject to inspection, &c.

Amount of single risks to be taken.

SECT. 34. No mutual fire insurance company shall contract for insurance, on any one risk, for any greater amount than they intend to retain; and shall in no case contract for a larger amount with the view or intention of reinsuring any part of the same.

Investment of funds.

SECT. 35. All investments of funds of any insurance company shall be made in the corporate name of said company; and all funds of such companies as classify their risks, shall be kept and invested separately, so as to designate the assets belonging to each class.

Policies of stock and mutual companies.

SECT. 36. No mutual fire insurance company shall issue policies on any other than the mutual plan of insurance, excepting such companies as have been chartered as stock and mutual companies; and such companies, before issuing any policies or transacting any business in the stock department, if doing business in Boston, either directly or through agencies, shall have a guarantee capital of at least one hundred thousand dollars, paid in and invested as required by section fourteenth of this act, exclusive of stockholders'

\$100,000 guarantee capital required, if in Boston.

notes, unless such notes are secured by mortgage or by pledges of stock or bonds, as provided in the fourteenth section of this act; and of all debts due from the company, and such proportion of all premiums received in cash for risks not terminated, as would be requisite to reinsure the same; and if doing business in any other city or town, the sum of at least fifty thousand dollars shall be paid in and invested in like manner, and be subject to all like conditions and restrictions as specified above. All business and all investments on account of the stock department of such companies shall be separately kept, and in making returns, as required, to the insurance commissioners, shall be according to the form marked A; the business done on the mutual principle shall also be kept separate, and returns made agreeably to the form marked C, appended to this act, as required in section eighth; and such combined companies shall not take, on any one risk in their stock department, a sum exceeding one-tenth of their capital stock; and when the capital stock is reduced in any way, the amount thereafter to be taken on any one risk shall forthwith be correspondingly reduced to the limitation in the fifteenth section of this act, until the capital shall be restored to its original amount.

\$50,000. if out of Boston.

Business of stock department to be kept separate.

SECT. 37. One-half of the directors of every mutual fire insurance company, with a guarantee capital, shall be chosen from the holders of the guarantee stock, and the other half from the members of the mutual department. The secretary of every such company shall keep a true list of stockholders of the guarantee capital, and of the number of shares held by each, and a record of the transfer of shares. Special meetings may be called by the directors whenever they think proper, and shall be called by them upon the written application of the owners of one-fifth of the guarantee stock, or of twenty members of the mutual department, setting forth the purposes of the meeting. Such companies shall, annually, between the first and tenth day of May, make the same returns to the assessors of each city or town in this Commonwealth, of the holders of the guarantee stock, and of the number of shares of corporate stock held as collateral security as is required by this act, of companies with specific capital; and shall be subject to the same penalty for neglecting to make the returns so required.

Choice of directors.

Secretary to keep list of stockholders of guarantee capital, &c.

Returns to assessors.

SECT. 38. All mutual fire insurance companies that have been incorporated in this Commonwealth, shall be allowed to issue policies on any property included in the terms of their charter, situated in the States of Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, Connecticut and

Present corporations may insure out of Commonwealth.

Future corporations prohibited.

New York; but any such company, hereafter incorporated, shall not insure property situated without the limits of this Commonwealth.

>500,000 to be subscribed before policies can issue.

SECT. 39. No policy shall be issued by any mutual fire insurance company hereafter incorporated by the legislature of this Commonwealth, until the sum of five hundred thousand dollars shall have been subscribed to be insured, and the same entered on the books of the company. The policies issued for the same, and the deposit notes given for said insurance, to be of the same date, which deposit notes shall not exceed double the amount paid as cash premium.

MUTUAL LIFE INSURANCE COMPANIES.

When life companies may go into operation.

SECT. 40. Before any mutual life insurance company shall go into operation, a guarantee capital of one hundred thousand dollars shall be paid in money, and invested as required by section fourteenth of this act. The subscribers or holders of guarantee stock in any mutual life insurance company, shall choose the first board of directors; at all subsequent elections they shall choose one-half of the directors, until the redemption of the guarantee stock, when the insured shall choose all of the directors. The stockholders shall be entitled to such annual dividends, not exceeding seven per cent., as may be agreed upon at the time of subscribing the capital, if the net surplus over a requisite reservation for liabilities and contingencies shall be sufficient to pay the same; and if less than the sum originally agreed on, it shall be made equal to it when the profits of the company are sufficient. One-quarter of the estimated surplus fund above a sufficient fund to provide for risks, losses, expenses and dividends, shall be reserved to be appropriated to the redemption of the guarantee stock; and after the expiration of ten years from the organization, when the amount reserved shall be sufficient, and the insured shall so vote, the guarantee stock may be redeemed. At the expiration of every five years the residue of the estimated surplus fund may be divided among the assured in proportion to the amount of premiums paid by them respectively on account of the risk on their policies for any part or the whole of the preceding five years: *provided*, that any policy, on which the premium is payable otherwise than by equal annual payments, shall not be entitled to a larger distribution than if the premium had been so paid.

Choice of directors.

Dividends.

Redemption of guarantee stock.

Proviso.

Payment of certain share of profits to Mass. Gen. Hospital.

SECT. 41. Every company empowered to make insurance on lives upon land, shall be subject to the same obligations for the payment of a certain share of the profits to the Mas-

sachusetts General Hospital, as are imposed on the Massachusetts Hospital Life Insurance Company.

SECT. 42. A policy of insurance on the life of any person, expressed to be for the benefit of any married woman, whether made by herself, her husband, or any other person, shall inure to her separate use and benefit, and that of her children, independently of her husband or his creditors, or the person effecting the same, or his creditors. A trustee may be appointed by the party obtaining the policy, or in case of no such appointment, then by the judge of probate for the county in which the party for whose benefit said policy is made, resides, to hold the interest of the married woman in such policy, or the proceeds thereof. A policy effected by any person on his own life, or on the life of another, expressed to be for the benefit of such other, or his representatives, or a third person for whose benefit it was made, shall be entitled thereto, against the creditors and the representatives of the person effecting the same. If the premium is paid by any person with intent to defraud his creditors, an amount equal to the premium so paid, with interest thereon, shall inure to the benefit of his creditors.

Insurance by one party for benefit of another, to inure, &c

SECT. 43. The treasurer of the Commonwealth, in his official capacity, shall take and hold, on deposit, the securities of any insurance company incorporated under the laws of this Commonwealth, which shall be so deposited by any such company for the purpose of complying with the laws of any other State, in order to enable such company to commence business in any other State. The company depositing such securities shall have the right to receive the income thereof, and, at any time, to exchange the same according to the laws of the States in which they may be doing business.

Treasurer to receive, on deposit, securities, &c.

FOREIGN INSURANCE COMPANIES.

SECT. 44. No foreign insurance company with specific capital, by their agent in this Commonwealth, shall insure property in this Commonwealth, or contract for insurance with any residents in this Commonwealth, unless the capital stock of the company amounts to one hundred thousand dollars, all of which sum shall have been paid in, in cash, and invested, exclusive of stockholders' obligations of any description not secured as required in the fourteenth section of this act, and the debts of the company; nor unless the company is restricted, by its charter or otherwise, from incurring any greater hazard in one risk than one-tenth of

No insurance by foreign stock companies, unless \$100,000 paid in, &c.

its unimpaired capital, nor unless the company shall have complied with the provisions of this act.

No foreign mutual company to insure without \$100,000 cash, and \$100,000 in deposit notes, &c.

SECT. 45. No foreign insurance company doing business upon the mutual plan, by their agent in this Commonwealth, shall insure property in this Commonwealth, or contract for insurance with any resident of this Commonwealth, unless said company shall have one hundred thousand dollars in cash, or available cash funds, securely invested, and at least one hundred thousand dollars in deposit notes; and before any foreign companies, whether doing business on the stock or mutual plan, shall, by their agents, transact any business in this Commonwealth, they shall satisfy the board of insurance commissioners that they have the amount of funds required by this act, and have complied with all other provisions of the same.

General agents to be appointed in writing.

SECT. 46. Every foreign insurance company, before doing business in this Commonwealth, shall, in writing, appoint a citizen of this Commonwealth, resident therein, a general agent, upon whom all lawful processes against the company may be served, in like manner as if the company had existed and been duly served with process in this Commonwealth; and said writing, or power of attorney, shall stipulate and agree, on the part of the company making the same, that any lawful process against said company which may be served on said general agent, shall be of the same legal force and validity as if served on said company. And a copy of the writing, duly certified and authenticated, shall be filed in the office of the insurance commissioners, and copies certified by the said commissioners, shall be evidence in the courts of this Commonwealth. This agency shall be continued while any liability remains outstanding against the company in this Commonwealth; and the power shall not be revoked until the same power is given to another, and a copy thereof filed as aforesaid. And service upon said agent shall be deemed sufficient service upon the principal. The general agent shall, before any insurance is made by said company, give a bond to the treasurer and receiver-general of this Commonwealth, with one or more sureties, to be approved by him, in the sum of two thousand dollars, with condition that he will accept service of all lawful processes against the company, in the manner provided in this act. Every agent of any foreign insurance company doing business in this Commonwealth, shall, before any business is done by him for said company, give a bond to the treasurer and receiver-general of this Commonwealth, with one or more sureties, to be approved by him, in the

Copy to be filed with commissioners.

Agent to give bonds;

sum of one thousand dollars, with conditions that he will, on or before the fifteenth day of November in each year, make return, on oath, to the treasurer and receiver-general of this Commonwealth, of the amounts insured by him, the premiums received and assessments collected, during the year ending on the thirty-first day of the October preceding, and at the same time pay to the treasurer and receiver-general, the tax provided in the following section of this act.

SECT. 47. Whenever, by the laws of any other State, any taxes, fines, penalties, deposits of money, or of securities or other obligations or prohibitions, are or shall be imposed upon insurance companies incorporated or organized under the laws of this Commonwealth, and transacting business in such other State, or upon the agents of such insurance companies, then, so long as such law or laws shall continue in force, the same taxes, fines, penalties, deposits and obligations, shall be imposed upon all insurance companies doing business in this Commonwealth, which are incorporated or organized under the laws of such other State, and upon their agents. And all insurance companies, transacting business in this Commonwealth, whose charters or other powers are derived from the governments or authorities out of the United States, shall, through their agents in this Commonwealth, in lieu of the relative taxes, herein before indicated, be subject to the payment annually, of the taxes here specified, viz.: on all premiums and assessments collected by agents of any such foreign life, fire or marine insurance company, a tax of one per centum.

SECT. 48. The general agent of every foreign insurance company shall, before any insurance is made, deposit with the insurance commissioners a copy of the charter of the company, and a statement, in the form appended to this act, adapted to the business done by such companies respectively, signed and sworn to by the president and secretary, and shall, before the fifteenth day of November, annually, transmit a statement in the form appended to this act, signed and sworn to by the president and secretary, made up to the thirty-first day of October preceding, to the insurance commissioners; and shall publish a copy thereof twice, in two different newspapers in each county in which the company has established an agency, and in counties in which but one newspaper is published, three successive weeks.

SECT. 49. If insurance is made by a foreign insurance company without complying with the requisitions of this act, the contract shall be valid; but the agent making the insurance shall be liable to the penalty provided in the fifty-

and make returns.

Taxes, &c. imposed on agents of other States.

Copy of charter, &c., to be deposited with commissioners.

Statement to be published.

Validity of contracts and liability of agents.

first section of this act. And if any such company shall neglect to appoint a general agent, agreeably to the provisions of this act, they shall not recover any premium or assessment made by them on any contract of insurance with a citizen of this Commonwealth, until the provisions of this act are complied with.

Agents out of State to exhibit sign, &c.

SECT. 50. Every person acting for an insurance company not incorporated in this Commonwealth, shall exhibit, in conspicuous letters, on the sign designating his place of business, the name of the State under whose authority the company he represents has been incorporated. And said company and agent shall also have printed, in large type, the name of such State, and the kind of office, whether chartered as a mutual or stock company, upon all policies issued to citizens of this Commonwealth, on all cards, placards and pamphlets, and in all advertisements published, issued or circulated in this State, by them or him, relating to the business of such company.

Agents to comply with laws, under penalty of \$1,000.

SECT. 51. No person shall be allowed to act as agent of any insurance company not incorporated in this Commonwealth, until such agent shall have complied with all the requirements of the laws of this Commonwealth relating to such companies and their agents; and every person so acting, without such compliance, or any person who shall, knowingly procure payment, or any obligation for the payment of any premium for insurance, by fraudulent representations, shall be punished by fine not exceeding one thousand dollars for each offence.

Penalty for neglecting to make returns.

SECT. 52. Every agent of a foreign insurance company neglecting to make the returns required by this act, shall forfeit one hundred dollars for each and every day's neglect, to be recovered by the treasurer of the Commonwealth.

Agents to exhibit books, when required, &c.

SECT. 53. The insurance commissioners of the Commonwealth shall, at any time, have full power to require the agents of any foreign insurance company to exhibit the books kept by them, relating to said agencies, and to make answer, in writing and under oath, to all reasonable questions proposed by said commissioners, in order to elicit a full statement of the business done for the company represented by such agent; and any agent refusing or neglecting to answer such interrogatories for the space of thirty days, shall be deemed not to have complied with the provisions of the laws of this Commonwealth; and if he continue to act as agent aforesaid, he shall be liable to the penalty prescribed in the fifty-first section of this act.

Penalty for refusing.

SECT. 54. Any agent making insurance in violation of

this act, or any law of this Commonwealth regulating insurance companies, shall forfeit, for each offence, a sum not exceeding one thousand dollars; and every person who shall make, contract for or receive, or transmit proposals for insurance for any other person, or receive for delivery, policies founded on proposals so forwarded by him from this Commonwealth, shall be deemed the agent of the company within the meaning of this act. And all payments made for policies, whether in money or note, shall be taken and deemed as premiums. And the governor and council may allow such reasonable compensation for services rendered and expenses incurred, in enforcing the provisions of this act, as they shall deem proper.

SECT. 55. The word *foreign*, used in this act, applies to all companies not incorporated by the legislature of this Commonwealth. Penalty for violating this act.
Who deemed as agents.
"Foreign" defined.

SECT. 56. The following acts are hereby repealed, viz.: Acts repealed.
The eighty-second chapter of the statutes passed in the year one thousand eight hundred and forty-six, and the four hundred and fifty-third chapter of the statutes passed in the year one thousand eight hundred and fifty-four, and so much of section nine, of the one hundred and twenty-fourth chapter of the statutes passed in the year one thousand eight hundred and fifty-five, as requires the board of insurance commissioners to make an annual report to the secretary of the Commonwealth: *provided, however*, that the same shall be and remain in force so far as may be necessary for the recovery of any fines or penalties which may have been incurred, and for enforcing any liabilities which may exist under the same at the time of the passage of this act; and *provided, further*, that this repeal shall not operate to revive any law which was repealed by any of said acts. Proviso.
Provided, further.

A.

Form of Return for all Insurance Companies with Specific Capitals, doing business in this Commonwealth.

1. State the Name of the Company.
2. Where located :
3. When incorporated :
4. Amount of Capital :
5. Amount of Capital actually paid in :
6. Number of shares, and par value of each :
7. Amount of Fire Risks outstanding :

8. Amount of Marine Risks outstanding ?
9. Total amount of Outstanding Risks ?
10. Amount of United States Stock or Treasury Notes owned by the Company ?
State amount of each kind, and par value and market value of each.
11. Amount of State Stocks ?
State amount of each kind, and par value and market value of each.
12. Amount of Bank Stocks ?
State amount of each kind, and par value and market value of each.
13. Amount of Railroad Stocks ?
State amount of each kind, and par value and market value of each.
14. Amount of Railroad Bonds ?
State amount of each kind, and par value and market value of each.
15. Cash value of Real Estate owned by the Company ?
16. Amount of Cash on hand ?
17. Amount of Cash in hands of Agents ?
18. Amount loaned on Mortgage of Real Estate ?
19. Amount loaned on Collateral ?
20. Amount loaned without Collateral ?
21. Amount of all other investments ?
22. Amount of Premium Notes on risks terminated ?
23. Amount of borrowed money, specifying collaterals given for the same ?
24. Amount of Losses due and unpaid ?
25. Amount of Losses claimed and unpaid ?
26. Amount of Losses reported upon which the liability of the Company is not determined ?
27. Amount of all other Claims against the Company ?
28. Amount of Cash received for Premiums on Fire Risks ?
29. Amount of Cash received for Premiums on Marine Risks ?
30. Amount of Notes received for Premiums on Fire Risks ?
31. Amount of Notes received for Premiums on Marine Risks ?
32. Amount of Cash received for interest ?
33. Amount of Income received from all other sources ?
34. Amount of Fire Losses paid last year ?
35. Amount of Marine Losses paid last year ?

36. Amount of Dividends paid the last year?
37. Amount paid for expenses of office?
38. Amount of other expenditures?
39. Amount received in cash for Fire Risks not terminated?
40. Amount required to reinsure all outstanding risks?
41. Amount of Premium Notes on risks not terminated?
42. Amount of Delinquent Notes not charged to Profit and Loss?
43. Highest rate of Interest received?
44. Highest rate of Interest paid on money borrowed?
45. How many shares of the Capital Stock are pledged to the Company?
46. Balance to credit of Profit and Loss account?
47. Balance to debit of Profit and Loss account?
48. How many shares of the Capital Stock are owned by the Company, or not subscribed for?
49. What amount of the Capital consists of the stockholders' notes?

B.

Form of Return for Mutual Marine, and Mutual Fire and Marine Insurance Companies, doing business in this Commonwealth.

1. Name or Title of the Company?
2. Where located?
3. When incorporated?
4. For what period?
5. Amount invested in United States Funded Debt, with the amount of each kind owned?
State par value and market value, per share.
6. Amount of United States Treasury Notes owned?
State par value and market value, per share.
7. Amount invested in State Stocks, with the amount of each kind owned?
State par value and market value, per share.
8. Number of Shares owned in each Bank which are not pledged?
State par value and market value, per share.
9. Number of Shares owned in each Railroad? Amount invested in each, at cost on Books?
State par value and market value, per share.

10. Amount received in Railroad Bonds, and amount of each kind at cost on Books?
State par value and market value, per share.
11. Amount invested in Real Estate as it stands on the Books of the Company?
12. State specifically all other investments or property.
13. Cash on hand and in Bank?
14. Cash in hands of Agents?
15. Amount loaned on Mortgage of Real Estate?
16. Amount loaned on Notes secured by collaterals of Personal Property?
17. Amount loaned on Notes without collateral security?
18. Amount of Stock Notes on hand not overdue?
19. Amount of Stock Notes on hand that are past due?
20. Amount of Premium Notes on risks terminated?
21. Amount of Premium Notes on risks not terminated?
22. Amount of delinquent Premium Notes not charged to Profit and Loss?
23. Amount of Scrip issued for Profits which remains outstanding?
24. Amount of Debts due the Company other than those before enumerated?
State particularly their respective amounts and origin.
25. Amount of Marine Risks not terminated?
26. Amount of Fire Risks not terminated?
27. Amount received in Cash for Fire Risks not terminated?
28. State the highest rate of Interest received.
29. Amount received for Interest?
30. State the highest rate of Interest paid for money borrowed.
31. Amount paid for Interest?
32. State the amount borrowed which remains unpaid, and state particularly the collateral given for each loan.
33. Amount of Fire Losses paid the past year?
34. Amount of Marine Losses paid the past year?
35. Amount of Losses ascertained and unpaid?
36. Amount of Losses claimed other than those ascertained and unpaid?
37. Amount of Expenses, Taxes and Commissions paid the past year?

C.

Form of Return for all Mutual Fire Insurance Companies, doing business in this Commonwealth.

1. Name of the Company ?
2. Where located ?
3. When incorporated ?
4. Date of commencement of business ?
5. Amount insured by existing Policies, in each Class ?
6. Amount of Premiums and Deposits on the same, in each Class ?
7. Amount of Premiums and Deposits received in cash, in each class ?
8. Number of Shares in each Bank :
State par value and market value, per share.
9. Number of Shares in each Railroad ?
State par value and market value, per share.
10. Amount of Bonds of each Railroad ?
State par value and market value, per share.
11. Amount invested in Real Estate, at cost, on the books of the Company ?
12. State in full all other investments.
13. Are any of the Assets or Securities of the Company pledged for liabilities of the Company ? If yea, state particularly what.
14. Cash on hand and in Bank ?
15. Cash in hands of Agents ?
16. Amount of Losses paid, in each Class, the last year ?
17. Amount assessed on Notes, in each Class, the past year ?
18. Amount assessed beyond the amount of Notes, in each Class ?
19. Amount of liabilities of the assured to further assessments in addition to the amount already assessed, in each Class ?
20. Amount of Assessments past due and not paid, in each Class ?
21. Amount of Policies terminated, in each Class, the past year ?
22. Amount of Policies issued, in each Class, the last year ?
23. Amount of Cash received for such Policies, in each Class, the last year ?
24. Amount of Premiums received in Notes for the same, in each Class, the last year ?
25. Amount of Losses ascertained and unpaid, in each Class :

26. Amount of Losses claimed, other than those ascertained and unpaid ?
27. Amount of Cash Dividends paid to Policy holders, in each Class, the last year ?
28. Amount of Assessments beyond the Notes received, in each Class, the last year ?
29. Amount owed for money borrowed, and on what securities ?
30. Highest rate of Interest paid ?
31. Highest rate of Interest received ?
32. Amount received for Interest ?
33. Amount insured on Real Estate ?
34. Amount insured on Personal Property ?
35. Amount of Delinquent Notes not charged to Profit and Loss account ?
36. Amount paid for Expenses, Taxes and Commissions, the last year ?
37. What proportion of the Property insured is in Massachusetts ?
38. What proportion of the Losses occurred on Property situated in Massachusetts ?

D.

Form of Return for all Life Insurance Companies, doing business in this Commonwealth.

1. Name of the Company ?
2. When chartered ?
3. For what period ?
4. Where located ?
5. On what table or basis of Mortality, and upon what rate of Interest, is the rate of Premium calculated ?
6. What percentage is added to rate computed to be necessary for payment of Losses, to meet Rent, Salaries, Commissions, and other incidental expenses and extraordinary contingencies ?
7. Amount insured by existing Policies ?
8. Present net value of existing Policies, or amount requisite for reinsurance at the rate of Premium charged by the Company, or by some other of good reputation, in actual use—and what one, including the "loading," or addition for expenses and contingencies ?
9. If estimated, and not actually computed, state the grounds upon which said estimate is predicated.

10. State, in full, the Assets of the Company.
11. Number of Shares owned in each Bank :
State par value and market value, per share.
12. Number of Shares owned in each Railroad, stating the corporate name of each, and amount invested in each at cost on books :
State par value and market value, per share.
13. Amount owned in Railroad Bonds :
State par value and market value, per share.
14. Amount invested in Real Estate, at cost, on the Books of the Company ?
15. Amount loaned on Mortgages of Real Estate :
16. Amount loaned on Notes secured by collaterals of Personal Property ?
17. Amount loaned on Notes without collaterals ?
18. State, in full, all other Investment.
19. Amount due to the Company which is overdue and in arrears ? Are any such included in the above statements of assets and investments ; and if so, to what amount ? What part, if any, is due on account of risks actually terminated by the Company ?
20. Amount of Losses ascertained and unpaid :
21. Amount of Losses claimed against the Company, whether acknowledged as due or not by the Company ?
22. Amount due from the Company on its declared, promised or acknowledged indebtedness, or other claims, including dividends, bonuses on distribution of surplus, or as profits ?
23. Amount received for Premiums the past year ?
24. Amount received for Premiums in Cash ?
25. Amount received for Premiums in Promissory Notes or Securities ?
26. Amount received for Interest the past year ?
27. Amount paid for Interest the past year ?
28. Amount of Guarantee Funds ? And state particularly whether the same are in Cash or Subscription Notes.
29. How are Dividends, Distributions of Surplus Funds, Bonuses, or estimated Profits paid, whether in Cash, Scrip, or otherwise on Credit, and whether on Demand, or if on Credit, for what length of time, and whether payable at a specific time, or indefinitely, at the discretion of the Company ?
30. Amount paid for Expenses, Taxes and Commissions, the past year ?
[Approved by the Governor, June 3, 1856.]

Chap. 253 AN ACT to authorize the Governor to appoint Commissioners of Deeds in Foreign Countries.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Foreign commissioners to take acknowledgment of deeds, &c.

SECT. 1. The governor shall have power to appoint one or more commissioners in every foreign country, who shall continue in office during the pleasure of the governor, and shall have authority to take the acknowledgment and proof of the execution of any deed or other conveyance, or lease of any lands lying in this State, or of any contract, letters of attorney, or of any other writing, whether under seal or not, to be used or recorded in this State.

Commissioner's certificate to have effect, &c.

SECT. 2. Such acknowledgment or proof, so taken, according to the laws of this State, and certified by any such commissioner, under his seal of office, annexed to, or endorsed on, such instrument, shall have the same force and effect, as if the same had been made before a judge, a justice of the peace, or any other officer authorized to perform such acts in this Commonwealth.

Power to administer oaths, &c.

SECT. 3. Every commissioner appointed as before mentioned, shall have power to administer any oath which may be lawfully required in this Commonwealth, to any person willing to take it; and to take and certify all depositions to be used in any of the courts of this Commonwealth, in conformity to the laws thereof, either on interrogatories proposed under a commission from a court in this Commonwealth, or by consent of parties, or on legal notice given to the opposite party; and all such acts shall be as valid as if done and certified according to law by a magistrate in this Commonwealth.

Oath of commissioner, &c.

SECT. 4. Every such commissioner, before performing any duty, or exercising any power in virtue of his appointment, shall take and subscribe an oath or affirmation, before a judge or clerk of one of the courts of record of the state, kingdom or country in which said commissioner shall reside, well and faithfully to execute and perform all the duties of such commissioner, under and by virtue of the laws of the Commonwealth of Massachusetts, which, with a description of his seal of office, together with his signature thereto, shall be filed in the office of the secretary of the Commonwealth.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

AN ACT relating to the Registry of Deeds for the Northern District of Middlesex. *Chap. 254*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. All instruments, relating to real estate situated within the limits of the district for the registry of deeds known as the Northern District of Middlesex, required by law to be recorded in a registry of deeds, shall be recorded in the registry of said Northern District of Middlesex, and such registration thereof shall be effectual and sufficient for all purposes, so far as the place of registration is concerned.

Instruments required to be recorded in Northern District.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

AN ACT in relation to the Returns of Votes.

Chap. 255

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The clerks of cities and towns, who shall fail to make their returns of the votes given in their respective cities or towns, at any election whatsoever, in due season, and in conformity with the provisions of the laws, shall be liable to a fine of not less than five, and not more than fifty dollars, to be recovered, by complaint, in any court of competent jurisdiction; and one-half of the penalty shall go to the complainant, and the other half into the treasury of the city or town to which such delinquent clerk may belong.

Penalty on clerks neglecting to return votes.

SECT. 2. All returns of votes shall, henceforward, be made by mail to the officers who are, or may be, specified by law to receive the same; and shall be mailed within forty-eight hours after the closing of the polls in each election; and proof of such mailing, within such time, shall be a bar to any complaint for delinquency.

Returns to be made by mail, &c.

SECT. 3. The secretary of State, and all other officers, to whom such returns of votes are or may be directed to be made, shall notify all city and town clerks, from whom returns shall not have been received within seven days after such election, that the returns have not been received. And if such clerks, after being so notified, shall fail to mail such deficient returns within twenty-four hours after receipt of said notice, they shall be liable to the penalty above named, for each and every instance of delinquency: *provided*, that if such returns shall actually be delivered to the officer or officers pointed out by law to receive the same, within seven

Secretary to notify if returns are not received in seven days.

days after each election, in any manner convenient to said clerks, it shall be deemed a satisfactory and sufficient discharge of their duty, and shall be a bar to any complaint for delinquency.

Inconsistent acts repealed.

SECT. 4. All acts and parts of acts, inconsistent herewith, are hereby repealed. [*Approved by the Governor, June 4, 1856.*]

Chap. 256

AN ACT concerning the planting of Shade Trees.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Officers authorized to plant shade trees.

SECT. 1. The mayor and aldermen of any city, or the selectmen of any town, or any municipal officer, to whom the care of the streets or roads may be intrusted by them, may authorize the planting of shade trees, wherever it may not interfere with the public travel, or with private rights ; and such trees, planted pursuant to such license, shall be deemed and taken to be the private property of the person or persons, or corporations, so planting them, or upon whose premises they may be planted, and may be protected as such in the same manner as any other private property ; and shall not be deemed a nuisance, or abated as such, except upon complaint made to the mayor and aldermen or selectmen aforesaid : who shall, in case of complaint, cause such trees to be removed, if the public necessity shall seem to them to require their removal.

Penalty for injuring trees, shrubs, &c.

SECT. 2. Any person or persons who shall wantonly injure, deface, tear or destroy any ornamental or shade tree or shrub, statue, fountain, vase, or other plant or fixture of ornament or utility, in any street, road, square, court, park, public garden, or other inclosure, shall be liable to a penalty of not less than five, nor more than one hundred dollars, to be recovered, by complaint, in any court of competent jurisdiction ; one-half of which penalty shall go to the complainant, and the other half to the person or persons, corporation or corporations, upon whose property, or within whose premises, the trespass may have been committed. [*Approved by the Governor, June 4, 1856.*]

AN ACT in relation to Insolvent Debtors.

Chap. 257

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Any person, being an insolvent debtor under the laws of this Commonwealth, who shall have been previously so insolvent, and who shall have paid all the debts owing by him at the time of his previous insolvency, shall be entitled to a valid discharge, in the same manner, and it shall have the same effect, as if he had never previously been insolvent. Discharge in cases of second insolvency.

SECT. 2. All acts and parts of acts, inconsistent with this act, are hereby repealed. Inconsistent acts repealed. [Approved by the Governor, June 4, 1856.]

AN ACT to incorporate the Wamsutta Bank, in Fall River.

Chap. 258

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Samuel A. Chase, Hale Remington, William Mason, 2d, their associates and successors, are hereby made a corporation, by the name of the president, directors and company of the Wamsutta Bank, to be established in Fall River, and shall so continue until the first day of October, in the year one thousand eight hundred and seventy-six; and shall be entitled to all the powers and privileges, and shall be subject to all the duties, liabilities and restrictions, set forth in the public statutes of this Commonwealth relative to banks and banking. Corporators. Name. Duration. Privileges, restrictions, &c.

SECT. 2. The capital stock of said bank shall consist of one hundred thousand dollars, to be divided into shares of one hundred dollars each, to be paid in such instalments, and at such times as the stockholders may direct: *provided*, that the whole be paid before the first day of May, in the year one thousand eight hundred and fifty-seven. Capital stock. Proviso.

SECT. 3. The stock of said bank shall be transferable only at the banking house, and on its books. Transfer of stock.

SECT. 4. The said corporation shall be subject to all the liabilities, requirements and restrictions, contained in such acts as may hereafter be passed by the general court in relation to banks and banking. [Approved by the Governor, June 4, 1856.] Subject to future laws.

Chap. 259

AN ACT to increase the Capital Stock of the Millbury Bank.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Additional capital.

SECT. 1. The president, directors and company of the Millbury Bank, in Millbury, are hereby authorized to increase their present capital stock, by an addition thereto of twenty-five thousand dollars, in shares of one hundred dollars each, which shall be paid in such instalments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-seven.

Remonstrance to be in writing.

SECT. 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Additional capital subject to tax, &c.

SECT. 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be filed with secretary of State.

SECT. 4. Before the aforesaid corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned to the office of the secretary of the Commonwealth.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

Chap. 260

AN ACT in addition to "An Act to incorporate the Broadway Railroad Company."

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Act revived for three years.

Chapter four hundred and forty-four, of the acts of eighteen hundred and fifty-four, being "An Act to incorporate the Broadway Railroad Company," is hereby revived, and continued in force for a period of three years from the passage hereof. [*Approved by the Governor, June 4, 1856.*]

AN ACT to incorporate the Northampton Hotel Company.

Chap. 261

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Jonathan H. Butler, John Clarke, Charles Delano, their associates and successors, are hereby made a corporation, by the name of the Northampton Hotel Company, for the purpose of erecting and maintaining, in the town of Northampton, buildings necessary and convenient for a public house ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes: *provided, however,* that said corporation shall not carry on the business of hotel keeping.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

Proviso.

SECT. 2. Said corporation may hold such real and personal property, as may be necessary and convenient for the purposes aforesaid, not exceeding in amount thirty thousand dollars: *provided, however,* that no shares in the capital stock of said corporation, shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued. [*Approved by the Governor, June 4, 1856.*]

Real and personal estate not to exceed \$30,000.

No shares issued under par.

AN ACT in addition to an Act to establish a Police Court in the Town of Milford.

Chap. 262

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The fifth section of chapter sixty, of the act passed in the year one thousand eight hundred and fifty-four, entitled an act to establish a police court in the town of Milford, is hereby amended so that the justice of said court shall retain for his services, in criminal prosecutions, a sum not exceeding six hundred dollars annually.

\$600 to justice, annually.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

AN ACT to incorporate the South Berkshire Institute Association.

Chap. 263

Be it enacted by the Senate, and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. J. A. Rising, James Hyde, John Brewer, Edwin Adams, their associates and successors, are hereby made a corporation, by the name of the South Berkshire Institute Association, for the purpose of establishing a boarding and

Corporators.

Name.

Purpose.

day school in the town of New Marlborough, in the county of Berkshire, to be called the South Berkshire Institute; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Privileges, restrictions, &c.

Real estate, \$15,000.
Personal estate, \$5,000.

SECT. 2. Said corporation may hold real estate to the amount of fifteen thousand dollars, and personal estate to the amount of five thousand dollars, to be exclusively devoted to the purposes of education.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

Chap. 264

AN ACT limiting the time for the Organization of Corporations.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Time limited to two years.

SECT. 1. The time within which all corporations created by the general court of this Commonwealth shall be organized, shall be limited to two years from the time of the passage of their respective acts of incorporation, except when the time is fixed in their said acts.

Existing corporations, to one year.

SECT. 2. All corporations heretofore created by the general court, shall be authorized to organize within one year from the passage of this act, and not after: *provided*, that the term of two years since the passage of their acts of incorporation has then expired, and that there is no limitation of time in the said acts.

Proviso.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

Chap. 265

AN ACT in addition to an Act concerning Probate Courts in the County of Dukes County.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Times of holding courts changed.

SECT. 1. There shall be a probate court held every year, at West Tisbury, in the county of Dukes county, on the third Monday of October, and at Edgartown, in said county, on the third Monday of January.

Partial repeal.

SECT. 2. So much of the chapter eighty-three, of the Revised Statutes, as provides for the holding of probate courts at Tisbury, on the third Monday of January, and at Edgartown, on the third Monday of October, is hereby repealed.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

AN ACT changing the time of holding a Term of the Probate Court in the County of Bristol. *Chap. 266*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. There shall be a probate court held every year at Taunton, in the county of Bristol, on the Friday next after the first Tuesday in November. Time of holding court changed.

SECT. 2. So much of the eighty-third chapter of the Revised Statutes, requiring a probate court to be held at Taunton, in the county of Bristol, on the first Tuesday of November, is hereby repealed. Partial repeal.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

AN ACT relating to the Public Cemetery of the City of Roxbury. *Chap. 267*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The real estate belonging to the Forest Hills Cemetery, purchased by the commissioners of said Forest Hills Cemetery, of Joel Seaverns, in pursuance of an order of the city council of the city of Roxbury, passed on the twenty-seventh of September, in the year eighteen hundred and fifty-two, shall be exempt from all public taxes so long as the same shall remain dedicated for the purposes of a cemetery. Exempt from taxation.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

AN ACT in addition to "An Act concerning Judges of Probate." *Chap. 268*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

In determining the jurisdiction of judges of probate, under the act, approved on the twenty-fourth day of May, in the year one thousand eight hundred and fifty-one, to which this is in addition, the provisions thereof shall not be construed so as to render any judge incompetent, by reason of interest, to act in the settlement of the estates of persons deceased, unless the principal sum due or claimed, without interest, shall exceed the sum named in said act. [*Approved by the Governor, June 4, 1856.*]

Chap. 269

AN ACT to increase the Capital Stock of the Adams Bank.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Additional capital.

SECT. 1. The president, directors and company of the Adams Bank, in Adams, are hereby authorized to increase their present capital stock, by an addition thereto of one hundred and fifty thousand dollars, to be divided into shares of one hundred dollars each, which shall be paid in such instalments as the president and directors may determine: *provided*, that the whole be paid in before the first day of May, in the year one thousand eight hundred and fifty-seven.

Proviso.

Remonstrance to be in writing.

SECT. 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Additional capital subject to tax.

SECT. 3. The additional capital stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be filed with secretary of State.

SECT. 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

Chap. 270

AN ACT to incorporate the Plymouth Library.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

SECT. 1. Charles Burton, Andrew L. Russell, John J. Russell, Charles G. Davis, William T. Davis, their associates and successors, are hereby made a corporation by the name of the Plymouth Library, for the purpose of establishing and maintaining a library in the town of Plymouth; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Name.

Purpose.

Privileges, restrictions, &c.

SECT. 2. This corporation may hold, for the purpose aforesaid, real and personal estate to the amount of ten thousand dollars. Real and personal estate, \$10,000.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

AN ACT concerning the sale of Onions in this Commonwealth.

Chap. 271

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. In all purchases and sales of onions hereafter made in this Commonwealth, the standard weight of the bushel shall be fifty-two pounds; and the provisions of the one hundred and ninety-ninth section of the twenty-eighth chapter of the Revised Statutes shall hereafter apply to all such purchases and sales. Weight of bushel.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

AN ACT to amend an Act entitled an Act in addition to an Act to establish the City of Worcester.

Chap. 272

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The power conferred upon the city council of the city of Worcester, by the fourth section of an act in addition to an act to establish the city of Worcester, chapter one hundred and ninety-one of the acts passed in the year one thousand eight hundred and fifty, is hereby conferred upon the mayor and aldermen of said city. Power of mayor and aldermen.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

AN ACT changing the time of holding a Probate Court at Groton, in the County of Middlesex.

Chap. 273

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

There shall be a probate court held at Groton, in the county of Middlesex, on the third Tuesday of October in every year; and so much of the eighty-third chapter of the Revised Statutes, requiring a probate court to be holden at said Groton, on the first Tuesday of November, is hereby repealed. [*Approved by the Governor, June 4, 1856.*]

Time for holding probate court changed.

Chap. 274

AN ACT to incorporate the Agawam Bridge Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

SECT. 1. Lyman Whitman, Thomas Kirkland, Henry Fuller, Henry Sykes, Luther Loomis, Henry Wolcott, Charles G. Rice, Elijah Bliss, J. R. Cooley, Horace Cutler, and their associates and successors, are hereby made a corporation by the name of the Agawam Bridge Company; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Name.

Privileges, restrictions, &c.

Authorized to erect a bridge over Connecticut River.

Real and personal estate not to exceed \$100,000.

Proviso.

Bridge to be well built, &c.

Corporation to make compensation for property taken.

Toll granted.

SECT. 2. The said corporation is hereby authorized and empowered to erect a bridge over Connecticut River, between the city of Springfield and the town of Agawam, at or near the present ferry, and to purchase and hold such real and personal estate as may be proper for that purpose, not exceeding in value the sum of one hundred thousand dollars: *provided*, that no shares in the capital stock of said corporation shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued. And said bridge shall be well built, of suitable materials, at least twenty-six feet wide, and floored with planks, with sufficient railings on each side, and shall be kept in good repair at all times.

SECT. 3. The said corporation shall be holden to make compensation to any person whose real estate or franchise shall be taken for the uses aforesaid, or be prejudiced thereby; and if there shall be a difference of opinion as to the value of the same, either party may apply to the county commissioners to estimate the damage such person may sustain; whereupon the same proceedings shall be had, in respect to damages and costs, and trial by jury, as are provided by the twenty-fourth chapter of the Revised Statutes, concerning townways and private ways.

SECT. 4. A toll is hereby granted to said corporation, and established at the following rates:—For each foot passenger, two cents; for each horse and rider, five cents; for each gig, sulky, buggy, wagon or sleigh, without top, drawn by one horse, ten cents; for each chaise, cab, carryall, covered buggy or sleigh, drawn by one horse, twelve cents; for each coach, chariot, phaeton, omnibus or covered sleigh, drawn by two horses, twenty-five cents; and for each additional horse, four cents; for each cart, wagon, sled, sleigh or other carriage of burden, drawn by one beast, ten cents;

if drawn by two beasts, fifteen cents; for each additional beast, four cents; for each horse without a rider, four cents; for sheep and swine, each, one cent; and one person, and no more, to each team, shall pass free of toll.

SECT. 5. The said tolls shall commence on the day of the opening of said bridge for public use, and continue for the term of sixty years thereafter; and at the place of receiving said tolls, there shall be constantly exposed to view a sign-board, with the said rates of toll fairly and legibly painted or printed thereon: *provided*, that if at any time after the building of said bridge the county of Hampden, the city of Springfield, and the town of Agawam, or any or either of them, shall reimburse the proprietors the money expended by them upon the same, with six per cent. interest added, the said bridge shall then be surrendered to the county of Hampden, to be forever after maintained as a free bridge.

When to commence.

Proviso.

SECT. 6. The said corporation may, if it see cause, commute said rates of toll with any person or persons, by taking a certain less sum, payable at any stated periods, instead of the toll aforesaid, or by taking of all persons less rates of toll than are above specified; public notice of their intention so to do being first published three weeks successively, in some newspaper printed in the city of Springfield.

May commute rates of toll, &c.

Public notice to be given.

SECT. 7. The said corporation at the time of opening said bridge, or as soon as may be thereafter, shall cause a true account of the expenses of building the same, and also at the end of every three years thereafter, a true account of all receipts and disbursements on account of the same, to be returned into the office of the secretary of the Commonwealth.

Corporation to return account of expenses of building, &c.

SECT. 8. The legislature may, at any time hereafter, regulate the tolls on said bridge, as they may deem expedient, upon reasonable notice to said corporation.

Legislature may regulate tolls.

SECT. 9. If said corporation shall neglect, for the space of five years from the passing of this act, to build and finish the said bridge, then this act shall be of no effect.

Act to be void unless bridge is finished in five years.

SECT. 10. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

Chap. 275

AN ACT to incorporate the Shelburne Falls Bank.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

- Corporators.** SECT. 1. Jarvis B. Bardwell, E. G. Lamson, Carver Hotchkiss, their associates and successors, are hereby made a corporation by the name of the president, directors and company of the Shelburne Falls Bank, to be established in the town of Shelburne, and village of Shelburne Falls, and shall so continue until the first day of October, in the year one thousand eight hundred and seventy-eight, and shall be entitled to all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the public statutes of this Commonwealth, relative to banks and banking.
- Duration.**
- Capital stock, \$100,000.** SECT. 2. The capital stock of said bank shall consist of one hundred thousand dollars, to be divided into shares of one hundred dollars each, to be paid in such instalments and at such times as the stockholders may direct: *provided*, that the whole be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.
- Proviso.**
- Transfer of stock.** SECT. 3. The stock of said bank shall be transferable only at its banking-house and on its books.
- Subject to future laws.** SECT. 4. The said corporation shall be subject to all the liabilities, requirements and restrictions contained in such acts as may hereafter be passed by the general court, in relation to banks and banking. [*Approved by the Governor, June 4, 1856.*]

Chap. 276

AN ACT to incorporate the Brookline Hotel Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

- Corporators.** SECT. 1. Charles Wild, William Aspinwall, George F. Homer and Nathaniel Harris, their associates and successors, are hereby made a corporation by the name of the Brookline Hotel Company, for the purpose of erecting a hotel in the town of Brookline, and maintaining such public house, and the buildings and improvements connected therewith; and for these purposes shall have all the powers and privileges, and be subject to all the duties, restrictions and limitations, set forth in the forty-fourth chapter of the Revised Statutes: *provided*, that said corporation shall not carry on the business of hotel keeping, or be in any way interested in such business.
- Purpose.**
- Privileges, restrictions, &c.**
- Proviso.**

SECT. 2. The whole amount of real and personal estate, or capital stock, which said corporation may hold for the purposes aforesaid, shall not exceed one hundred thousand dollars. Capital not to exceed \$100,000.

SECT. 3. The one hundred and twenty-third chapter of the acts of the legislature, passed in the year one thousand eight hundred and fifty-five, is hereby repealed. Former act repealed.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

AN ACT to fix the Salary of the District-Attorney for the South-Eastern District. Chap. 277

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The salary of the district-attorney for the south-eastern district shall be henceforward established at the rate of one thousand dollars per annum—payable in equal quarterly payments, out of the treasury of the Commonwealth. [*Approved by the Governor, June 4, 1856.*] Salary established.

AN ACT to prevent Waste.

Chap. 278

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The provisions of the fifty-fourth section of the three hundred and twelfth chapter of the statutes of the year eighteen hundred and fifty-two, are hereby so far extended as to embrace all cases when any real action has been or may be brought for the recovery of land, and any waste thereon has been committed or threatened by the defendant, or any one claiming under him, or acting by his permission on the land; and in all cases the court, or the justice thereof, to whom application is made, may, in their discretion, require that the applicant shall, before the issuing of the writ of injunction, give a bond with sufficient sureties to the adverse party, with the condition that the applicant shall pay all damages, which may arise from the issuing of said writ of injunction, in case the same should be subsequently dissolved. [*Approved by the Governor, June 4, 1856.*] Issue of writs of injunction to stay waste, &c.

Chap. 279 AN ACT in addition to an Act to incorporate the Dorchester Avenue Railroad Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Authorized to issue bonds not to exceed amount of capital.

SECT. 1. The Dorchester Avenue Railroad Company are hereby authorized to issue bonds, for the purpose of constructing their road, or for money which it may borrow, for any purpose sanctioned by law; but the bonds so issued shall not exceed the amount of capital stock paid in by the stockholders of said company. Such bonds may be issued in sums of not less than five hundred dollars each, payable in twenty years from their date, with interest at the rate of six per cent., payable semi-annually.

Bonds to be approved.

SECT. 2. Such bonds shall be approved by a majority of the finance committee of said corporation, who shall certify that each of said bonds is properly issued and recorded upon the books of the corporation. All bonds and notes which shall be issued by said corporation shall be binding and collectable in law, notwithstanding such bonds or notes may be negotiated and sold by such corporation, or their agents, at less than par.

Security of bonds.

SECT. 3. Said bonds shall be secured by a conveyance of the corporate property to three trustees, by a suitable instrument to be prepared for that purpose, as a pledge or mortgage to secure the performance of the conditions of said bonds.

Sinking fund.

SECT. 4. The said corporation shall, semi-annually, pay to said trustees a sum equal to two per cent. per annum, on the amount of said bonds, for the purpose of creating a sinking fund. Said trustees shall have the care and management of all the moneys, funds and securities at any time belonging to said sinking fund; and they shall, from time to time, at their discretion, invest the moneys on hand securely, and so that they shall be productive, and the same may be invested in the bonds of the Dorchester Avenue Railroad Company, secured as aforesaid, or loaned on interest to any county, city, or town, or any bank of this Commonwealth, or the same may be loaned on interest, well secured by a first mortgage of real estate to an amount not exceeding one-half the value thereof, or by pledge of the scrip or stock of any of the New England States, or of any city, county, or town, as aforesaid, or of any bank incorporated by this Commonwealth; and the said fund, together with the accruing interest, shall constitute a sinking fund for the payment and redemption of said bonds.

Trustees to manage sinking fund.

SECT. 5. Said trustees shall make an annual return to the secretary of this Commonwealth, of the whole amount of bonds issued by said corporation and secured by mortgage as aforesaid, and the whole amount by them received, and the investments made thereof.

Trustees to make annual returns.

SECT. 6. In case of failure by the said corporation, in the performance of any of the conditions of said bonds, the trustees shall petition the supreme judicial court for leave to sell the property conveyed to them as aforesaid; and thereupon the same shall be sold in such way and manner as the court may order; and after the payment of all costs and expenses, there shall be paid into the sinking fund a sum which, added to the amount then on hand, shall equal the amount of said bonds, and any interest thereon due and unpaid, and the remainder thereof paid to said corporation.

In case of failure, &c., S. J. Court may order sale.

SECT. 7. The purchaser or purchasers at such sale, may associate themselves together, under any name by them assumed, for the purpose of managing said railroad, and they shall, together with their successors and assigns, be and remain a body corporate, under the name assumed by them; but, before they shall commence business, they shall make a certificate, setting forth their corporate name, the amount of capital actually paid in, and the par value of the shares; which certificate shall be signed and sworn to by the president, treasurer, and a majority of the directors of said company, published three times in two daily Boston papers, and filed with the secretary of the Commonwealth; and when so organized, they shall become a corporation, with like powers and privileges, and subject to all the duties and restrictions set forth in the act incorporating the Dorchester Avenue Railroad Company.

Purchasers may organize as a corporation, &c.

Certificate to be filed, &c.

SECT. 8. The supreme judicial court shall have full equity powers on all matters relating to this act, or the acts to which it is in addition.

Equity powers of S. J. Court.

SECT. 9. This act shall not take effect unless it shall be accepted by a majority of the stockholders of the aforesaid corporation, at a meeting called for that purpose. [*Approved by the Governor, June 4, 1856.*]

Act not to take effect, unless, &c.

Chap. 280 AN ACT in addition to an Act to incorporate the Malden and Melrose Gas-Light Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Malden and Melrose Gas-Light Company may extend their pipes into Medford and West Cambridge, and build all necessary buildings in either of said towns; and they shall have power and authority to open the ground in any part of the streets, lanes and highways, in said towns, for the purpose of sinking and repairing such pipes and conductors as it may be necessary to sink, for the purposes aforesaid; and the said company, after opening the ground in said streets, lanes, and highways, shall be held to put the same again in repair, under the penalty of being prosecuted for a nuisance: *provided, however*, that the selectmen of said towns, respectively, for the time being, shall, at all times, have the power, in their respective towns, to regulate, restrict and control, the acts and doings of said company, which may in any manner affect the health, safety or convenience of the inhabitants of said towns; and *provided, further*, that they shall not extend their pipes into Medford without first obtaining the written consent of the selectmen of said town.

SECT. 2. From and after the acceptance of this act, the Malden and Melrose Gas-Light Company shall be called and known as the Malden, Medford and Melrose Gas-Light Company.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

Chap. 281 AN ACT to incorporate the General Charitable Society, of Newburyport.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Mary E. Dimmick, Margaret H. Andrews, Sarah J. Spalding, Mary C. Balch, their associates and successors, are hereby made a corporation by the name of the General Charitable Society, of Newburyport, for the purpose of taking, holding, investing and distributing such funds as they now have, or as may hereafter be given them, for the charitable and benevolent objects of their association; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

SECT. 2. Said corporation shall be empowered to hold real and personal estate to an amount not exceeding ten thousand dollars. Real and personal estate not to exceed \$10,000.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

AN ACT concerning Charles River and Warren Bridges.

Chap. 282

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. There shall be provided for Charles River Bridge and for Warren Bridge, a steady and discreet person for draw-tender. Draw-tenders appointed.

SECT. 2. Said draw-tenders shall have full control and direction (under the rules and directions of the agent or superintendent) of the passing of all vessels through said draws; they shall give all necessary advice, and furnish proper facilities for said passing; they shall allow no unnecessary detention, having due regard and caution for the public travel; they shall be ready, day and night, to open the draws; and the agent or superintendent shall have posted up, in some conspicuous place, for the inspection of all persons interested therein, a written or printed copy of his regulations, conforming to the provisions of this act. General duties.

SECT. 3. Every commander or master of a vessel applying to pass the draw, shall give the draw-tender a true report of his vessel's extreme breadth (when required so to do); he shall be governed by the draw-tender, as to the priority of right, when two or more vessels apply to pass at the same time; he shall so place his buoys, warping lines, anchors or cables, as neither to interfere with other vessels, or obstruct the bridge, except as he may be authorized by the draw-tender or agent; and vessels shall go to the right in passing up and down, according to the tide, if practicable, unless otherwise directed by the draw-tender. Regulations for passing the draw.

SECT. 4. Any person obstructing such draw-tender in the performance of his duty as prescribed by this act, or violating the provisions of this act, shall, upon conviction thereof, pay a fine of not less than three nor more than fifty dollars. Fine for obstructing draw-tender.

SECT. 5. Any person who shall break, deface or impair either of said bridges, wharves, or piers, or shall unnecessarily open or obstruct the draw, without the consent of such draw-tender, or shall, without the consent of such draw-tender, make fast or moor to such bridge, any scow, raft or Fine for injuring or obstructing bridge, &c.

other vessel, within wake of the draw, shall, upon conviction thereof, pay a fine of not less than three nor more than twenty dollars; and any city marshal or constable, within whose jurisdiction such obstruction may occur, shall have power, upon the complaint of such draw-tender, to remove the commander or master and remove such vessel at the owner's expense.

Vessels to pay damages, &c.

SECT. 6. If any vessel shall, through the negligence or carelessness of the master, or others having charge of such vessel, injure, or damage said bridge, wharf or pier, such vessel, her master and owners, shall pay for repairing such damage, with costs for collecting the same.

Penalty for wilfully injuring, &c.

SECT. 7. If any person shall wilfully injure or damage said bridge, wharf or pier, or shall wilfully disturb or hinder the draw-tender in the discharge of his duties as aforesaid, he shall forfeit and pay for each offence, a penalty of not less than fifty, nor greater than one hundred dollars, to the use of the Commonwealth, to be recovered by indictment or information, in any court of competent jurisdiction, and such person, so offending, shall be further liable to answer in damages to the Commonwealth: *provided*, that nothing in this act shall be construed as intending to impair or affect the legal rights of any person whatever.

Proviso.

SECT. 8. This act shall take effect from and after its passage. [*Approved by the Governor, June 4, 1856.*]

Chap. 283

AN ACT concerning the Essex Merrimac Bridge.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporation continued 25 years.

SECT. 1. The proprietors of the Essex Merrimac Bridge, are hereby continued a corporation for the term of twenty-five years beyond the time now fixed by their charter, and the acts additional thereto, and shall be entitled to all the powers and privileges, and subjected to all the restrictions and liabilities, now set forth in their charter, and the acts additional thereto: *provided*, that the said proprietors shall, within eighteen months after the passage of this act, cause the following additions and alterations to be made to the said bridge, namely: the wooden part of the pier on the southerly side of the draw of said bridge, and adjoining thereto, shall be raised two feet higher than it now is, and the said proprietors shall construct and keep in good repair, during the whole time they may be authorized to receive toll, a new pier, to be connected to the aforesaid pier, extend-

Proviso.

ing easterly therefrom seventy feet, which pier shall be twenty-five feet wide on the top, and of the same height as the pier aforesaid, and shall be built in like manner as the piers of said bridge are now built, and suitable posts and rings shall be attached to said pier, for the accommodation of vessels passing through the draw of said bridge ; also, the said proprietors shall place and maintain, during the term of their charter, two good buoys in the river on the easterly side of the said bridge, and three good buoys in the river on the westerly side of the said bridge, with sufficient chains and anchors for vessels to lie at securely while passing through the draw of said bridge ; and they shall be placed in such locations as the branch pilots on the Merrimac River shall designate.

SECT. 2. The three hundred and sixtieth chapter of the acts of the year one thousand eight hundred and fifty-five, entitled "An Act concerning the Essex Merrimac Bridge," shall be void and of no effect, when the additions and alterations set forth in the first section of this act are completed, according to the provisions thereof. [*Approved by the Governor, June 4, 1856.*]

AN ACT in addition to the several Acts for the relief of Insolvent Debtors, and the more equal Distribution of their Effects. Chap. 284

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. There shall be, and there are, hereby established, courts of record, to be called courts of insolvency, one in and for each county in this Commonwealth ; and there shall be appointed, commissioned and qualified, in the manner prescribed by the constitution, a suitable person learned in the law, to be judge for each of said courts, who shall hold his office during good behavior ; and as vacancies shall occur, the same shall be filled in the manner prescribed by the constitution for appointing and commissioning judicial officers.

SECT. 2. Said judges shall have and exercise all the jurisdiction, power and authority that commissioners of insolvency now have and exercise under and by virtue of, the several acts to which this is in addition ; and all the provisions in said acts contained, shall apply in like manner to said judges respectively, as they apply to judges of probate, masters in chancery, and commissioners of insolvency, except so far as said provisions, or any of them, may be by this act modified or repealed.

Courts held in shire towns, &c.

SECT. 3. Each judge shall hold his court at the shire town or shire towns, of the county or counties, within his jurisdiction, at such times as he shall appoint; and each county shall provide a suitable court room in the shire town or shire towns thereof, for the use of said courts, and shall also provide a suitable fire-proof room, in which shall be kept all the records of said courts, and all the books, documents and papers appertaining to the business of said courts; also, all the records of insolvency, in all cases in insolvency now or heretofore pending in such county.

Judges may approve bonds, &c.

SECT. 4. Said judges of insolvency respectively, may, in vacation, as well as at a stated court, and notwithstanding the absence of the register, approve compositions and assignees' bonds, and approve or order sales, receive petitions, issue orders of notice and warrants, and do such other official acts as are done as matters of course, and as do not require a previous notice to an adverse party.

In case of inability, judge of adjoining county may hold court.

SECT. 5. If any of said judges shall, from sickness, absence, or other cause, be unable to perform the duties required of him, in any case arising within his jurisdiction, or shall be interested in any such case, the duties required of him shall, if such case shall arise in the county of Dukes County or Nantucket, be performed by the judge of the insolvency court of Barnstable County; and if such case shall arise in any other county than Dukes County or Nantucket, such duties shall be performed by the judge of the insolvency court of that adjoining county having the least number of inhabitants according to the next preceding decennial census. And the register of the court within whose jurisdiction such case shall arise, shall make upon the record of the case a certificate of such inability, upon its being made known to him, and shall forthwith transmit a certified copy of the same to the judge whose duty it is to act in the case, and who shall, during such inability, act in the case in the county in which the case shall arise.

Seal.

SECT. 6. The supreme judicial court shall establish a seal for said courts of insolvency, and all assignments, warrants, orders of notice and processes, issuing from the said courts of insolvency, shall be under said seal.

Judges may punish for contempt, &c.

SECT. 7. Every judge of insolvency shall have power to keep order in his court, and punish any contempt of his authority, in like manner as such contempt might be punished by the court of common pleas, and may appoint any such officer or officers to attend upon said court, as may be needed for the transaction of the business thereof, and to aid in keeping order therein.

SECT. 8. All sheriffs, deputy-sheriffs, coroners and constables, shall serve and execute all decrees, warrants, orders and processes to them legally directed by any judge of insolvency. Duty of sheriffs, &c.

SECT. 9. Said several courts of insolvency shall have power to issue commissions, to take testimony, and to compel the attendance of witnesses, and the giving of testimony, in the like manner and to the like extent as the court of common pleas has. Same powers as C. C. Pleas.

SECT. 10. The said judges shall, from time to time, make rules, in writing, for regulating the practice and conducting the business of said courts, in all cases not provided for by law. And they shall, within six months from the time this act shall take effect, return a statement in writing, of the rules and course of proceeding made and adopted by them, or a majority of them, to the supreme judicial court, and they shall make a like return of all their rules thereafter made and adopted as aforesaid, as soon as conveniently may be, after making and adopting the same; and the supreme judicial court shall have power to alter and amend all such rules, and to make other and further rules, from time to time, for regulating the proceedings in all said courts, as they shall judge necessary, in order to introduce and maintain regularity and uniformity in said proceedings. Rules of court.

SECT. 11. Each judge of insolvency shall appoint, temporarily, a suitable person to be register of insolvency, in all cases arising within the jurisdiction of said judge; and said register shall hold his office, until a register is duly chosen and qualified; and at the annual election to be holden in November next, a register of insolvency shall be elected in and for each of the several counties in this Commonwealth, for the same term of years and in the same manner as is now provided by law for the election of clerks of courts. Appointment, &c., of registers.

SECT. 12. Every register of insolvency shall, before entering upon his office, make oath that he will faithfully discharge the duties thereof, and that he will not, during his continuance in office, directly or indirectly, be interested in, or benefited by, the fees or emoluments arising from any suit or matter pending in the court of which he is register, and such oath being subscribed by such register shall be filed in said court; and he shall also give bond to the treasurer of the Commonwealth, in a sum not less than five hundred dollars, and not exceeding five thousand dollars, as shall be ordered by the judge, with one or more sureties, to be approved by said judge, with condition for the faithful discharge of the duties of his office. To make oath, and give bond.

Duties and powers of register.

SECT. 13. Said register shall record, in books to be kept for that purpose, all the proceedings at the meetings of creditors, and all decrees and orders of said court, all warrants, assignments, returns, certificates of discharge, and all such other acts and proceedings as he shall, by the rules of the court, or by any special order of the judge, be required to record. Said register shall also make and keep a docket of all cases pending in said court, and of the proceedings therein, with an alphabetical index thereto. He shall also have the care and custody of all the books, documents and papers appertaining to said court, and filed or deposited therein, and shall carefully preserve the same to be delivered to his successor; and he shall also perform such other duties appertaining to his office as shall be prescribed by the judge. All said books, records, documents and papers, and said docket, shall be at all reasonable times open to the inspection of the public. Said register shall also make all computations of dividends, and make out all orders of distribution, and shall furnish to the assignees a certified copy of such orders, and also of all schedules of creditors, and of assets filed in each case. He shall also have power, in case of the absence of the judge, to adjourn any court or meeting.

Temporary register.

SECT. 14. In case of the death or absence of the register, the judge shall appoint some other suitable person as register until the standing register shall be able to perform his duty, or until another standing register shall be appointed and qualified. Every person so appointed temporary register shall be sworn before the judge appointing him, to the faithful performance of the duties of his office, and so long as he shall perform said duties he shall be entitled to the same compensation therefor as if he had been the standing register; and such compensation shall be paid by the standing register when his absence is the cause of appointing a temporary register: *provided*, such standing register shall again enter upon the discharge of the duties of his office.

Compensation.

Proviso.

Temporary appointments to be recorded.

SECT. 15. The appointment of such temporary register, and the certificate of the oath of office administered to him, shall in every case be recorded with the other proceedings whenever such appointment shall be made.

Judge not to be of counsel.

SECT. 16. No judge of insolvency shall be retained or employed as counsel or attorney, either in or out of court, in any suit or matter whatsoever, which may depend upon, or in any way relate to, any decision, warrant, order or decree made or passed by him, or to any proceedings in his

court, nor shall he be of counsel or attorney for or against any debtor, creditor or assignee, in any cause or matter which may come before him, or which may arise or grow out of, or be in any way connected with any proceedings before him, or in any appeal in any such cause or matter. And every judge of insolvency, before entering upon his office shall, in addition to his oath of office, make oath that he will not, during his continuance in office, be directly or indirectly interested in, or benefited by, the fees or emoluments arising in any matter pending in the court of which he is judge; and such oath being subscribed by said judge shall be filed in the court of insolvency.

SECT. 17. No register shall be of counsel or attorney, Register not to be of counsel. either in or out of court, in any suit or matter whatsoever, pending in the court of which he is register, or in any appeal therefrom, nor shall he be assignee in any case pending in said court, nor in any manner interested in the fees or emoluments arising from said office of assignee, or from any matter or proceeding in said court.

SECT. 18. The several judges of insolvency shall receive Salaries of judges. for their services an annual salary as specified in the following table, to wit:—

The judge of insolvency for the county of Suffolk, the sum of three thousand dollars.

The judge of insolvency for the county of Middlesex, the sum of two thousand dollars.

The judge of insolvency for the county of Worcester, the sum of eighteen hundred dollars.

The judge of insolvency for the county of Essex, the sum of seventeen hundred dollars.

The judge of insolvency for the county of Norfolk, the sum of fifteen hundred dollars.

The judges of insolvency for the counties of Berkshire, Bristol and Plymouth, the sum of one thousand dollars each.

The judges of insolvency for the counties of Hampshire and Hampden, the sum of eight hundred dollars each.

The judge of insolvency for the county of Franklin, the sum of five hundred dollars.

The judge of insolvency for the county of Barnstable, the sum of four hundred dollars.

The judge of insolvency for the county of Dukes County, the sum of one hundred and fifty dollars.

The judge of insolvency for the county of Nantucket, the sum of one hundred and fifty dollars.

SECT. 19. The several registers of the insolvency courts shall receive for their services an annual salary as specified Salaries of registers. in the following table, to wit:—

The register of the insolvency court for the county of Suffolk, the sum of three thousand dollars.

The register of the insolvency court for the county of Middlesex, the sum of fourteen hundred dollars.

The register of the insolvency court for the county of Worcester, the sum of twelve hundred dollars.

The register of the insolvency court for the county of Essex, the sum of eleven hundred dollars.

The register of the insolvency court for the county of Norfolk, the sum of one thousand dollars.

The registers of the insolvency courts for the counties of Berkshire, Bristol and Plymouth, the sum of eight hundred dollars each.

The registers of the insolvency courts for the counties of Hampshire and Hampden, the sum of five hundred dollars each.

The register of the insolvency court for the county of Franklin, the sum four hundred dollars.

The register of the insolvency court for the county of Barnstable, the sum of three hundred and fifty dollars.

The register of the insolvency court for the county of Dukes County, the sum of seventy-five dollars.

The register of the insolvency court for the county of Nantucket, the sum of seventy-five dollars.

Paid quarterly.

SECT. 20. The said salaries shall be paid in quarterly payments out of the treasury of the Commonwealth, on the first days of January, April, July and October in every year, and in the same proportion for any part of a year.

No additional fees.

SECT. 21. No judge of insolvency or register of insolvency shall receive any fee or compensation in addition to the salaries above provided, for any thing done by them respectively, in their official capacities, except as hereinafter provided.

Fees for copies.

SECT. 22. The register of insolvency shall, for all copies which he shall make of any orders for distribution and schedules, in addition to those required by law, and for all copies of any other papers, be paid by the person demanding the same, at the rate of fourteen cents per page, and no more.

Commonwealth to pay expenses.

SECT. 23. All expenses attending the sessions of said courts, and the transaction of business therein, and all expenses for blank books for said records, and for blank forms and stationery necessary for the transaction of the business of said courts, shall be paid out of the treasury of the Commonwealth.

Fees for warrant, &c

SECT. 24. In each case in insolvency there shall be allowed and paid the fees in the following table set forth, and none other, to wit:—

For issuing the warrant on the original petition, five dollars:

For each day on which any meeting in said case shall be held, seven dollars:

For each order for dividend, five dollars:

Which fees shall have priority of payment over all other claims out of the estate and effects of the debtor; and if there shall not be sufficient assets in the case for the payment thereof, the person upon whose petition the warrant is issued shall pay the same, and the court shall have the power to issue an execution against such petitioner to compel the payment thereof to the standing register; and before the issuing of any warrant such petitioner shall deposit with such register, or with the judge, to be delivered to such register, forty dollars, as security for the payment of said fees. Said standing register shall receive all said fees, and shall account for and pay over the same to the treasurer of the Commonwealth quarter yearly, on the first Monday of January, April, July and October, in each year.

SECT. 25. If any debtor hereafter being insolvent, or in contemplation of insolvency, shall, within six months before the filing of the petition by or against him, make any payment with a view, directly or indirectly, to give a preference to any preëxisting creditor, or to any person having any preëxisting claim or demand against such debtor, or to any person who is or may be liable as endorser, guarantor or surety for such debtor, such payment shall, as to the other creditors, be void, and the assignees may recover from the person so preferred, the money so paid, with interest: *provided*, such person, when accepting such preference, had reasonable cause to believe such debtor insolvent. And any such payment shall be sufficient cause for proceeding against the debtor in the manner, and for the purposes mentioned in the act of one thousand eight hundred and forty-four, chapter one hundred and seventy-eight, section nine: *provided*, that such debtor had, at the time of giving such preference, reasonable cause to believe himself insolvent. The provisions of this section shall not apply to any payment not exceeding twenty-five dollars in amount, upon any debt contracted for necessaries furnished to the debtor or his family.

Certain payments void.

Proviso.

SECT. 26. If any debtor, hereafter being insolvent, or in contemplation of insolvency, shall, within six months before the filing of the petition by or against him, make or give any mortgage, pledge, assignment, transfer or conveyance of any money or other property belonging to him, to secure

Certain mortgages, &c., void.

any person who is or may be liable as endorser, guarantor, surety, or otherwise liable for such debtor, with a view to give a preference, directly or indirectly, to any other endorser, guarantor or surety, or any preëxisting creditor, whether by passing, assigning, transferring or delivering to or for him, the note, bill of exchange, obligation or contract upon which such person shall be so liable for such debtor, or by enabling him to avail himself in any other manner, directly or indirectly, of the benefit of such liability, such mortgage, pledge, assignment, transfer or conveyance, shall be void as to the other creditors of such debtor, and the assignees may recover the full value of the property so mortgaged, pledged, transferred, assigned or conveyed, or the property itself, from the person to whom such mortgage, pledge, assignment, transfer or conveyance shall be made: *provided*, he shall, when receiving such mortgage, pledge, assignment, transfer or conveyance, have reasonable cause to believe such debtor was then insolvent, and intended to prefer; or the value of such property from the person so preferred: *provided*, that when accepting such preference he had reasonable cause to believe such debtor insolvent.

Proviso.

Certain assignments of property, &c., void.

SECT. 27. If any person hereafter being insolvent, or in contemplation of insolvency, shall, within six months before the filing of the petition by or against him, make any sale, assignment, transfer or conveyance, either absolute or conditional, of any of his property, to any person who then has reasonable cause to believe such debtor insolvent, or in contemplation of insolvency, and that such sale, assignment, transfer or conveyance is made with a view to prevent the property so sold, assigned, transferred or conveyed, from coming to the assignees, or to prevent the same being distributed according to the insolvent laws, or to defeat the object of, or in any way impair, hinder, impede or delay the operation or effect of, or to evade any of said laws, such sale, assignment, transfer or conveyance, shall be void, and the assignees may recover the property so sold, assigned, transferred or conveyed, or the value thereof, as assets of said insolvency. And the fact of such sale, assignment, transfer or conveyance not being made in the usual or ordinary course of business of the debtor, shall be *prima facie* evidence of such cause of belief.

SECT. 28. No draft, bill of exchange, promissory note, claim, demand, or cause of action, which shall hereafter, within six months before the filing of the petition by or against any insolvent debtor, be assigned, transferred, conveyed or delivered to any person who is or may be indebted,

Certain drafts, &c., assigned, not to be offset, &c.

or in any way liable to such insolvent debtor, shall be offset, or pleadable in defence, or in bar to any suit by the assignees to recover such debt or liability, but such assignees may recover the same, notwithstanding such draft, bill of exchange, promissory note, claim, demand or cause of action: *provided*, the person to whom the same shall be assigned, transferred, conveyed or delivered, as aforesaid, shall, at the time of such assignment, transfer, conveyance or delivery, have reasonable cause to believe such debtor insolvent.

Proviso

SECT. 29. In order to maintain proceedings against any debtor in manner and for the purposes set forth in the statute of one thousand eight hundred and forty-four, chapter one hundred and seventy-eight, section nine, for making any fraudulent payment, conveyance or transfer of his property, or any part thereof, it shall not be necessary to prove fraud on the part of the person receiving such payment, transfer or conveyance, or that he had reasonable cause to believe the debtor insolvent.

Proof necessary to maintain proceedings, &c.

SECT. 30. If hereafter any insolvent debtor, after notice of the filing of the petition by or against him, shall secrete or conceal any property belonging to his estate, or any books, deeds, documents or writings relating thereto, or shall remove, or cause to be removed, the same, or any part thereof, out of the Commonwealth, or otherwise dispose of the same, or any part thereof, with a view to prevent the same, or any part thereof, from coming to the hands or possession of the messenger or assignees, or to hinder, impede or delay the messenger or assignees in the recovering or receiving the same; or shall make any payment, gift, sale, assignment or conveyance of any property belonging to his estate; or shall spend the same, or any part thereof, in gaming, or otherwise spend the same, except such parts thereof as may reasonably be expended for the support of himself and his family, not exceeding the amount allowable by law, he shall be deemed guilty of a misdemeanor, and being convicted thereof, shall be punished by imprisonment in the state prison for a term not exceeding five years, or in the county jail for a term not exceeding two years.

Debtor to be deemed guilty of misdemeanor in certain cases.

SECT. 31. No discharge of any debtor under the insolvent laws, shall be granted or valid, if such debtor hereafter shall have destroyed, altered, mutilated or falsified any of his books, documents, papers, writings or securities, or made, or been privy to the making, of any false or fraudulent entry in any book of account, or other document, with intent to defraud his creditors, or shall have removed himself, or

Discharge forfeited by certain proceedings in fraud of creditors.

removed, or caused to be removed, his property, or any part thereof, from the Commonwealth, with intent to defraud his creditors, or shall make any fraudulent payment, gift, transfer, conveyance or assignment of his property, or any part thereof, or shall spend the same, or any part thereof, in gaming; or, being a merchant or tradesman, shall not, after the passage of this act, have kept proper books of account; or if any person having proved a false debt against the debtor's estate, said debtor being privy thereto, or afterwards knowing the same, shall not have disclosed the same to his assignees within one month after such knowledge; or unless the debtor shall satisfy the court that he had reasonable cause to believe himself solvent within six months next preceding the filing the petition by or against him.

Claims, in certain cases, not to be allowed.

SECT. 32. No person who shall have hereafter accepted any preference, having reasonable cause to believe that the same was made or given by the debtor contrary to any of the provisions of the insolvent laws, shall be allowed to prove the debt or claim on account of which such preference was made or given, nor to receive any dividend therefor out of the debtor's estate.

Certain claims may be postponed.

SECT. 33. Whenever any claim shall be presented for proof, before the election of the assignees, and the judge or commissioner shall entertain doubts of the validity of such claim, or of the right of the creditor to prove the same, and shall be of opinion that the validity thereof, or right of the creditor, ought to be investigated by the assignees, he shall have power to postpone the proof of such claim till after the election of the assignees.

Certain creditors not eligible as assignees, &c.

SECT. 34. No person who shall have had or received any preference, contrary to the provisions of the insolvent laws, shall be eligible as assignee, or shall be allowed to vote upon the choice of assignees of the estate of any insolvent debtor: *provided, however*, that no title to any property, real or personal, which shall have been sold, transferred or conveyed by any assignee, shall be affected or impaired by reason of the ineligibility of such assignee.

Proviso.

Additional oath of creditor.

SECT. 35. There shall be added to the creditor's oath, now required to be taken in proof of his claim against the estate of the insolvent debtor, in substance, the following, to wit:—"And I do further swear that I have not, directly or indirectly, made or entered into any bargain, arrangement or agreement, express or implied, to sell, transfer or dispose of my claim, or any part of my claim, against said debtor, nor have, directly or indirectly, received or taken, or made or entered into any bargain, arrangement or agreement,

express or implied, to take or receive, directly or indirectly, any money, property, or consideration whatsoever, to myself, or to any person or persons to my use or benefit, under or with any understanding or agreement, express or implied, whereby my vote for assignees, or my assent to the debtor's discharge is, or shall be, in any way affected, influenced or controlled, or whereby the proceedings in this case are, or shall be affected, influenced or controlled." No debt shall be proved or allowed against any insolvent estate, unless all the facts set forth in the creditor's oath shall be true.

SECT. 36. Whenever complaint shall be made on oath, by the messenger or assignees, to any judge of insolvency, stating that there is reason to suspect and believe, and that the complainant does suspect and believe, that any personal property, or any books, deeds, documents, securities, papers or writings, belonging to the estate of any insolvent debtor, are secreted or concealed in any particular house, premises or other place, such judge is hereby authorized and directed, if he shall be satisfied that there is reasonable cause for such belief, to grant a warrant to the messenger or assignees to search for such property, books, deeds, documents, securities, papers or writings, and it shall be lawful for such messenger or assignees to execute said warrant in like manner; and such messenger or assignees shall be entitled to the same protection, as is allowed by law in the execution of a search warrant for property reputed to be stolen and concealed.

Judge may grant search warrant, &c.

SECT. 37. No warrant against any copartnership shall be issued upon the petition of less than all the copartners, unless reasonable notice shall first be given by the court, to the other partner or partners, if within the Commonwealth, of the pendency of such petition, so that he or they may show cause, if any, why the prayer of the petition should not be granted.

Warrant against copartners, &c.

SECT. 38. In all matters in insolvency that are contested, either before a court of insolvency or in the supreme judicial court, said respective courts may, in their discretion, award costs to either party, to be paid by the other, or to either or both parties, to be paid out of the estate which is the subject in controversy, as justice and equity may require.

Award of costs.

SECT. 39. When costs are awarded to one party, to be paid by the other, the said courts respectively, may issue execution therefor, in like manner as practised in courts of common law.

Execution for costs.

SECT. 40. This act shall not affect any case in insolvency now commenced, or that shall hereafter be commenced

Not to affect pending actions.

before this act shall take effect; and the judge of probate, master in chancery, or commissioner before whom any such cases may be pending at the time this act shall take effect, shall have the same jurisdiction, power and authority in respect to them, as they now have.

Repeal of certain provisions.

SECT. 41. So much of the several acts to which this is in addition, as gives jurisdiction to judges of probate, masters in chancery, and commissioners of insolvency, and all other provisions in said several acts inconsistent with the provisions of this act, are hereby repealed.

When to take effect

SECT. 42. This act shall take effect thirty days from the time of its passage, except as to that part providing for the appointing, commissioning and qualifying the judges of said courts, which part shall take effect on the passage hereof. [*Approved by the Governor, June 6, 1856.*]

Chap. 285

AN ACT to protect the Fishery in the Town of Edgartown.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Seine fishing prohibited from April to October.

SECT. 1. No person shall set, draw or stretch, any seine or net of any kind, within one mile from the shore of any of the ponds, creeks, bays, harbors or inlets of the sea within the limits of the town of Edgartown, excepting in a pond known by the name of the Oyster Pond, from the first day of April to the first day of October, inclusive, in each year; nor shall any person, not an inhabitant of said town, at any time, set, drag or stretch any seine or net in any of the ponds, creeks or outlets thereof. The seining of menhaden and mackerel is exempted from this act.

Penalty and seizure.

SECT. 2. Any person violating any provision of this act, shall be liable to a fine not exceeding three hundred dollars for each offence; or any boat, vessel or fishing apparatus, used by persons in violating the provisions of this act, may be seized and detained, not exceeding the time of forty-eight hours, by any person appointed for the purpose by the town of Edgartown, for the purpose of duly prosecuting the person offending this law.

Town to choose fish wardens.

SECT. 3. The town of Edgartown is hereby authorized to choose, at the annual town meeting, or at any meeting duly warned for that purpose, such number of fish wardens as may at the time be thought necessary, who shall be sworn to the faithful discharge of their duty, whose duty it shall be to prosecute for offences against the provisions of this act; one-half of all fines imposed and collected shall inure

Their duty.

to the fish wardens, and the other half to the Commonwealth.

SECT. 4. All fines or penalties for violating any provision of this act, with costs, may be sued for and recovered in any court competent to try the same, on complaint of either of the fish wardens. Fines, how recovered.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, June 6, 1856.*]

AN ACT in addition to an Act to establish the District of Marshpee.

Chap. 286

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. No person, not a proprietor of the district of Marshpee in his own right, shall be qualified to vote in the elections and other affairs thereof, in right of his wife being a proprietor, except as hereinafter provided. Voters in Marshpee.

SECT. 2. Any person not a proprietor in his own right, and being the husband of a female proprietor, may, at any time not less than thirty days previous to the annual election, make application to the selectmen of the district to be admitted to the franchise; the selectmen shall, thereupon, insert his name in the warrant calling such meeting, and his application shall then be voted and decided upon by the proprietors; and if he shall be admitted by the votes of said proprietors, he shall have and enjoy all the rights of proprietorship: *provided*, that the said applicant shall have resided in the district for at least five years before he shall be so admitted. Non-proprietors, how admitted.

SECT. 3. Whenever a vacancy shall occur in the office of treasurer of the district of Marshpee, the proprietors of said district, entitled to vote, shall, in a district meeting called for that purpose, and notified not less than one fortnight beforehand, elect and recommend a suitable person to be appointed treasurer by the governor and council, under the one hundred and eighty-sixth chapter of the acts of eighteen hundred and fifty-three, entitled "An Act to abolish the office of Commissioner of Marshpee," and a copy of the record of the vote, making such election and recommendation, shall be submitted to the governor and council; and the person so elected and recommended, shall be appointed as treasurer of said district, unless, in the judgment of the governor and council, such appointment shall be unsuitable, in which case the office shall be filled in the manner now provided by law. Vacancy of treasurer, how filled.

Act not to apply, &c. **SECT. 4.** The first and second sections of this act shall not be construed to apply to any inhabitants of said district who may have been entitled to vote at the last annual district election; neither shall this act take effect, unless it shall be adopted by a majority of votes, at a district meeting called for that purpose, and notified at least sixty days beforehand, or at the next annual district meeting—a majority of the proprietors, entitled to vote, being present at such meeting. [*Approved by the Governor, June 6, 1856.*]

When to take effect.

Chap. 287 AN ACT to incorporate the Bowdoin Mutual Fire Insurance Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators **SECT. 1.** Joseph L. Drew, Isaac T. Campbell, Christopher C. Barney, their associates and successors, are hereby made a corporation by the name of the Bowdoin Mutual Fire Insurance Company, to be located in the city of Boston, and established for twenty-eight years, for the purpose of making insurance upon any buildings, stocks, tools, machinery, merchandise, or any property whatever, against loss or damage by fire; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the thirty-seventh and forty-fourth chapters of the Revised Statutes, and all other laws of this Commonwealth, made, or to be made, relating to mutual insurance companies.

Name.

Duration. Purpose.

Privileges, restrictions, &c.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, June 6, 1856.*]

Chap. 288 AN ACT authorizing the Towns of Truro and Provincetown to construct a Bridge over East Harbor.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Bridge in Truro and Provincetown. **SECT. 1.** The selectmen of the towns of Truro and Provincetown are hereby authorized and empowered to construct or rebuild a bridge over East Harbor, so called, in the towns of Truro and Provincetown aforesaid, within two years from the passage of this act; and said towns, or either of them, shall not be liable to indictment, if said bridge is completed within that time.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, June 6, 1856.*]

AN ACT for the preservation of Fish in the Merrimac River.

Chap. 289

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Essex Company shall, before the first day of February which will be in the year one thousand eight hundred and fifty-seven, make, and forever thereafter maintain in or around their dam in Lawrence, a suitable and sufficient fishway for the usual and unobstructed passage of fish during the months of April, May, June, September and October, in every year, under a penalty of not less than one hundred dollars nor more than five hundred dollars, for every day said company shall neglect to make and maintain such fishway after said first day of February, to be recovered by indictment in either county of Essex or Middlesex, one-half to the use of the complainant and one-half to the use of the Commonwealth.

Fishway to be maintained.

Penalty for neglect.

SECT. 2. No person shall take any fish with a spear, net, hook or seine, during either of the months aforesaid, in any year, within eighty rods of said dam or the entrance of said fishway.

Restrictions on fishing.

SECT. 3. Every person offending against the provisions of the preceding section shall be punished by fine not exceeding one hundred dollars for each offence, one-half of which shall inure to the use of the complainant and the other half to the use of the Commonwealth.

Penalty for violation.

SECT. 4. All acts or parts of acts, inconsistent herewith, are hereby repealed. [*Approved by the Governor, June 6, 1856.*]

AN ACT concerning the Cambridge Water Works.

Chap. 290

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Cambridge Water Works are hereby authorized, for the purpose of furnishing the inhabitants of Cambridge with a supply of soft water, to raise the waters of Fresh Pond by steam-power into a receiving reservoir, and conducting the same by pipes from thence through the city of Cambridge: *provided, however*, that they shall not, at any time, draw the waters of said pond, or of Spy and Little Ponds, below low-water mark of said ponds.

May draw water from Fresh Pond.

Proviso.

SECT. 2. Said Cambridge Water Works may construct a dam at the outlet of Fresh Pond, at some convenient place near the Concord Avenue, and also a dam on the outlets of

May construct dams.

Spy and Little Ponds, at some convenient place on the same, near the place where said streams pass under the Lexington Branch Railroad: *provided, however*, that they shall not, at any time, raise the waters of Fresh, Spy or Little Ponds, by means of said dams, so that they shall rise above high-water mark of said ponds.

Proviso.

Commissioner to be appointed upon application, &c.

SECT. 3. A commissioner shall be nominated by the governor and council, on application of said Cambridge Water Works, or of any party in interest, who shall, at the cost and expense of said water works, after notice to all parties in interest, ascertain the points between which the waters of said ponds and said brooks rise and fall, and shall erect permanent monuments showing the same, and shall make a full report of all his doings to the governor and council.

May lay pipes, build aqueducts, &c.

SECT. 4. The said Cambridge Water Works may lay pipes, build and maintain aqueducts and reservoirs, for conducting, holding and distributing water, may erect and maintain engine-houses, and may construct and maintain any other works necessary for the carrying on the purposes for which they are chartered.

May take, hold and convey lands, &c.

Proviso.

SECT. 5. For the purposes aforesaid, the Cambridge Water Works may take, hold and convey, land, water and water-rights: *provided, however*, that before entering upon the lands and water-rights, or taking any water of any person or corporation, they shall file their petition before the supreme judicial court for the county of Suffolk, praying for the appointment of three commissioners, to assess the damages, if any, caused by taking land, water or water-rights; and such commissioners shall have full power, after due notice to each party, to assess the damages, if any, which shall be paid by said Cambridge Water Works, and their determination, or that of the major part of them, being returned into and accepted by said court, shall be final and binding upon both parties, and judgment shall be rendered thereon, unless one of the said parties shall claim a trial by jury, as is hereinafter provided.

Commissioners to assess damages.

Either party may claim trial by jury.

SECT. 6. In case either party shall claim a jury trial, as provided in the last section, such party may, at the term at which such award is accepted, or the next term thereafter, claim, in writing, a trial at the bar of said court, and have a jury to hear and determine all questions of fact relating to such damages, and to assess the amount thereof; and in case a greater sum is not awarded than that allowed by said commissioners, such party shall pay the costs in the petition, and the verdict of such jury being accepted and recorded by said court, shall be final and conclusive, and judgment shall be rendered thereon.

Costs.

Verdict to be final.

SECT. 7. Whenever judgment shall have been rendered for any damages assessed, as before provided, the said Cambridge Water Works shall thereupon pay to the clerk of the court the amount of said judgment, with interest thereon, together with the costs of court taxed by the clerk, which sum shall be in full satisfaction of said judgment; and until it is satisfied, as aforesaid, said Cambridge Water Works shall have no right to enter upon said land, water or water-rights.

Judgment to be satisfied before entering upon lands, &c.

SECT. 8. The said Cambridge Water Works shall keep open a good and sufficient way, for the passage of the fish that usually go up into Fresh, Spy and Little Ponds, in their usual and proper season in the year, between the first day of March and last day of June, inclusive: *provided*, such fishway need not be kept open in the spring of the year, before the persons having a right of fishing in said streams, or some one of them, shall have notified the water works to open them. And said water works, if they do not comply with the provisions of this section, shall forfeit and pay the sum of five hundred dollars for each and every day during which they shall wilfully neglect to comply therewith, to be recovered in an action of tort, to the use of any person or persons who shall suffer therefrom, who shall sue for the same in any court of competent jurisdiction.

Fishway to be kept open.

Proviso.

Penalty.

SECT. 9. The occupant of any tenement shall be liable for the payment of the price or rent for the use of the water in such tenement, and the owner thereof shall be also liable if, on being notified of such use, he does not object thereto; and if any person or persons shall use any of said water raised as aforesaid, in the city of Cambridge, without the consent of said water works, an action of tort may be maintained against him for the recovery of damages therefor.

Liability for water rent.

SECT. 10. If any person or persons shall, wantonly or maliciously, divert the water or any part thereof, of any of the ponds, streams or water sources, which shall be used by the Cambridge Water Works, pursuant to the provisions of this act, or shall corrupt the same, or render it impure, or destroy or injure any dam, reservoir, pipe, hydrant, building, machinery, or other property held, owned, or used by said Cambridge Water Works, by the authority and for the purposes for which they are chartered, every such person or persons shall forfeit and pay to said water works, three times the amount of the damages that shall be assessed therefor, to be recovered by any proper action,—and every such person or persons may, moreover, on indictment and conviction of either of the wanton and malicious acts aforesaid, be

Penalty for diverting water, &c.

Proviso. punished by fine not exceeding five hundred dollars, and imprisonment not exceeding three months: *provided*, that nothing in this section contained, shall be construed to prevent the abutters on said pond, from entering upon said pond during the winter season, for the purpose of cutting ice, with men and horses, and the proper implements for preparing and cutting the said ice, and securing the same in the manner heretofore practised.

Not to affect pending suits. SECT. 11. Nothing in this act contained shall be construed to affect, in any manner, the rights of any party or parties to any suit or proceeding in law or equity, now pending.

When and how to take effect. SECT. 12. This act shall not take effect unless the legal voters of the city of Cambridge, at a meeting notified for that purpose, at least thirty days before the day appointed for such meeting, shall, by a majority of the votes cast at such meeting, agree to accept the same. [*Approved by the Governor, June 6, 1856.*]

Chap. 291 AN ACT to authorize the Commissioners of the County of Bristol to borrow Money either to repair or to build a House of Correction.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

May borrow \$60,000. SECT. 1. The county commissioners for the county of Bristol are hereby authorized and empowered to borrow, on the credit of said county, in addition to the amount of debt they are now authorized to contract, a sum not exceeding sixty thousand dollars, the same to be expended by the said commissioners, or their successors in office, either in repairing and enlarging the present house of correction, or in erecting a new one, as they in their judgment shall deem best.

Former act repealed. SECT. 2. Chapter two hundred and nineteen of the statutes of the year eighteen hundred and fifty-five, is hereby repealed.

When to take effect. SECT. 3. This act shall not take effect until after the next election of a county commissioner for said county. [*Approved by the Governor, June 6, 1856.*]

AN ACT concerning the Indexing of Deeds.

Chap. 292

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Whenever any deeds or other conveyances by executors, administrators, guardians, or persons acting under or by authority of an order of any court of competent jurisdiction, or of a resolve of the general court, shall be left for record at any of the registries of deeds in this Commonwealth, it shall be the duty of the register to enter in the entry books and indexes of the grantors, the names of the testators, intestates, wards and persons whose estates are conveyed, when the same shall appear by such deeds, and also, the names of such executors, administrators, and guardians. And whenever any decree for the partition of land or commissioner's return thereon, shall be so left for record, it shall be the duty of the register to enter the names of all the persons whose estates shall plainly appear to be affected thereby, in the entry books, and in the indexes of the grantors and of the grantees.

Deeds of executors, &c., how to be indexed.

SECT. 2. The county commissioners in each county shall hereafter procure, at the charge of their respective counties, a copy, to be made by some competent person or persons, within the first six months of each and every year, of the indexes in the registries of deeds in their respective counties, for the preceding year, in which the grantors and grantees shall respectively be assorted into distinct lists by their respective surnames, arranged in such lists in the order in which the deeds and other conveyances to which they refer are left for record, and such lists placed in alphabetical order. Such copies shall, in other respects, be in the form now required by law for the indexes to the records. And the county commissioners in each county, shall so procure such copies of the indexes in their respective counties for the year one thousand eight hundred and fifty-five, to be made and completed by the first day of January next.

County commissioners to procure indexes annually, hereafter

SECT. 3. The county commissioners of each county, and the mayor and aldermen of the city of Boston, shall have power, whenever they shall deem it expedient, to cause copies of the indexes, or new indexes, to the records now existing in the registries of deeds in their respective counties, or of any part thereof, to be made by some competent person or persons, at the charge of their respective counties, upon the plan hereinbefore provided, or upon such plan, and in such manner, as will, in their judgment, best facilitate references to the records.

May cause index to records now existing, to be prepared.

May be printed.

SECT. 4. The county commissioners in each county, and the mayor and aldermen of the city of Boston, shall have power, if they shall deem it expedient, to cause such copies of the indexes, or new indexes herein before provided and authorized to be made, to be printed at the charge of their respective counties, for sale at a price which shall not be less than the cost of printing, and paper and binding.

SECT. 5. This act shall take effect from and after its passage. [*Approved by the Governor, June 6, 1856.*]

Chap. 293

AN Act concerning the Harbor of Boston, Mystic River and Dorchester Bay.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Limits of wharf and pier lines.

SECT. 1. The lines hereinafter described shall be, and the same hereby are, established as lines, beyond which no wharf or pier shall ever hereafter be extended into and over the tide-waters of the Commonwealth.

Lines in South Bay.

SECT. 2. The lines in South Bay begin at a point denoted by letter A, on plan number two, of the harbor commissioners of eighteen hundred and fifty-four, and is in the mouth of Roxbury Canal, distant one hundred and thirty feet south-eastwardly from the twelfth line of the commissioners of eighteen hundred and forty-seven, measuring in the direction of a line drawn from a point in the said twelfth line, distant one hundred and twenty feet north-eastwardly from the south-westerly termination thereof, (the said termination being understood to be a point distant one thousand feet from the south-easterly line of Harrison Avenue, measuring at right angles with the said south-easterly line from a point therein lying in the direction of the south-westerly line of the South Burying Ground extended, south-eastwardly,) to a point on the south-easterly rail of the Boston and New York Central Railroad Bridge, distant twenty-six hundred and twenty-eight feet south-westwardly from the south-westerly rail of the Old Colony Railroad Bridge, near Dorchester Avenue, measuring on the said south-easterly rail; thence running south-eastwardly thirteen hundred feet, in the same direction as the line of one hundred and thirty feet above described, to the point B, said point being at or near the northerly end of F. A. Heath and Company's sea-wall; thence south-eastwardly straight to the point C, on the most north-easterly corner of said Heath and Company's wharf; thence along the present line of said wharf to the point D, on the most south-easterly corner of the same;

thence in the direction of a line drawn from the last mentioned corner to a point on the south-easterly rail of the said Boston and New York Central Railroad Bridge, which point is distant forty-nine hundred and eighty-seven feet south-westwardly from the south-westerly rail of the Old Colony Railroad Bridge, above mentioned, measuring on the said south-westerly rail, to the point E, which is situated at the intersection of this line with a line crossing the aforesaid Boston and New York Central Railroad Bridge, and passing through a point on the south-easterly rail of the same, distant forty-six hundred and seventy-two feet south-westwardly from the south-westerly rail of the Old Colony Railroad Bridge, above mentioned, measuring on the said south-easterly rail and making an angle of seventy-eight degrees and forty-five minutes, (taken from a north-easterly to an easterly direction,) with the said Boston and New York Central Railroad Bridge; thence eastwardly in the direction of the line last described, eleven hundred and seventy feet, to the point F; thence northwardly to the point G, it being the southerly termination of the tenth line of the commissioners of eight-hundred and forty-seven: *provided*, that nothing contained in this act shall affect or take away the legal rights of any person, unless a reasonable compensation shall have been previously made or provided therefor. Proviso.

SECT. 3. The lines in Mystic River begin at a point denoted by letter A, on plan number three, of the harbor commissioners of eighteen hundred and fifty-four, and is on the north-westerly side of Chelsea Bridge, distant four hundred and sixty feet north-eastwardly from the north-easterly draw in said bridge; thence the line runs in a south-easterly direction, making an angle of eighty-seven degrees and thirty minutes, (taken from a south-westerly to a south-easterly direction,) with said bridge, to the point B, situated at the intersection of this line with the commissioners' line of eighteen hundred and forty-nine. Beginning again at the point A, first mentioned, the line runs in a westerly direction two thousand and twenty feet to the point C, making an angle of sixty-two degrees and fifteen minutes, (taken from a south-westerly to a westerly direction,) with said bridge; thence north-westwardly four hundred and thirty feet, to the point D, near the easterly side of the mouth of Island End River, making an angle of one hundred and forty-five degrees and thirty minutes, (taken from an easterly to a north-westerly direction,) with the line last described. Then beginning at the point E, on the south-easterly side of Malden Bridge, distant six hundred and fifty feet north-east- Lines in Mystic River.

wardly from the draw in said bridge, the line runs in an easterly direction twenty-five hundred feet, to the point F, making an angle of eighty-one degrees and thirty minutes, (taken from a north-easterly to a south-easterly direction,) with said bridge; thence eastwardly sixteen hundred and fifty feet, to the point G, near the westerly side of the mouth of Island End River; making an angle of one hundred and fifty-six degrees and thirty minutes, (taken from a north-westerly to an easterly direction,) with the line last described. The line on the south-westerly side of the channel begins at the point H, on the most easterly corner of the wall of Tuft's Mill Pond, said point being the beginning of the line of solid structure, as described in chapter one hundred and five of the acts of eighteen hundred and fifty-two, authorizing the city of Charlestown and others, to fill up certain flats in Mystic River; thence the line runs north-westwardly along the north-easterly side of the said wall of Tuft's Mill Pond to the point I, on the south-easterly side of Malden Bridge, said point being at the intersection of said wall and bridge: *providing*, that the proprietors bounding on said line from H to I, may extend piers from said line to the channel.

Line from South
Boston Point, &c.

SECT. 4. The line from South Boston Point, through Dorchester Bay and Neponset River, commences at the termination of the line of the commissioners of eighteen hundred and fifty-one, denoted by letter A on plan number four, of the harbor commissioners of eighteen hundred and fifty-four, and is situated in the northerly line of Fourth Street extended eastwardly, and fourteen hundred feet from the easterly line of P Street; thence the line runs in a southerly direction, parallel with P Street, seven hundred feet to the point B, thence south-westwardly, to the point C, in the westerly line of P Street, extended southwardly, and five hundred and thirty feet from the southerly line of Sixth Street; thence south-westwardly again to the point D, in the easterly line of M Street extended southwardly, and thirteen hundred feet from the southerly line of Eighth Street; thence westwardly, parallel with Eighth Street, to the point E, in the easterly line of Old Harbor Street extended southwardly; thence southwardly fourteen hundred feet to the point F, in the easterly line of Old Harbor Street extended southwardly; thence eastwardly, making an angle of one hundred and four degrees, (taken from a northerly to an easterly direction,) with the line last described, to the point G, in the easterly line of M Street extended southwardly; thence thirty-two hundred feet, to the point H, in the east-

erly line of M Street extended southwardly; thence south-westwardly, thirty-eight hundred and fifty feet, making an angle of one hundred and twenty-four degrees, (taken from a northerly to a south-westerly direction,) with the line last described, to the point I; thence westwardly to the point J, on the easterly side of the Old Colony Railroad Bridge, near Glover's Tide-Mill Pond, distant four hundred and thirty feet northwardly from the draw in said bridge; then southwardly, along the easterly side of said bridge six hundred feet, to the point K; thence south-eastwardly, to the point L, distant two hundred feet from the north-easterly corner of Ranstead Dearborn and Company's wharf, (as at present built,) measuring at right angles with the north-easterly end of said wharf; thence southwardly to the point M, distant thirteen hundred and fifty feet from the north-easterly rail of the Old Colony Railroad, measuring at right angles therewith, from a point distant four thousand feet north-westwardly from the draw in their bridge over Neponset River; thence south-eastwardly, to the point N, distant twelve hundred feet from said rail, measuring at right angles therewith, from a point distant thirty-three hundred feet north-westwardly from said draw; thence south-eastwardly again, to the point O, distant seventeen hundred and fifty feet from said rail, measuring at right angles therewith, from a point distant sixteen hundred feet north-westwardly from said draw; thence southwardly, to the point P, distant twelve hundred feet from said rail, measuring at right angles therewith, from a point distant three hundred feet north-westwardly from said draw; thence south-westwardly, to the point Q, on the south-easterly corner of James Jenkins' wharf, (as at present built); thence to the point R, on the south-easterly corner of William H. Chamberlain's wharf, (as at present built); thence along the south-easterly end of said Chamberlain's wharf, and of Edward Preston's wharf, (as at present built,) to the point S, on the easterly side of the Neponset Bridge.

SECT. 5. The line from East Boston in the direction of Breed's Island, commences at the termination of the line of the commissioners of eighteen hundred and forty, denoted by letter A, on the plan number one of the harbor commissioners of eighteen hundred and fifty-four, and is in the south-westerly line of Sumner Street, extended south-eastwardly, and eight hundred feet from the south-easterly line of Jeffries Street; thence the line runs easterly to a point in the north-easterly line of Everett Street, continued south-easterly, and distant sixteen hundred and ten feet from the

Line from East
Boston.

south-easterly line of Jeffries Street; thence the line runs northerly to a point in the line of the north-easterly side of Neptune Street, continued south-eastwardly, and distant fifteen hundred feet from the south-easterly line of Shirley Street; thence the line runs straight north-eastwardly, to the point B, on the south-westerly shore of Breed's Island, distant twelve hundred and fifty feet from the south-easterly line of Saratoga Street, extended north-eastwardly, measuring at right angles therewith, from a point distant thirteen hundred feet from the south-westerly line of Trumbull Street.

No wharf, &c., to be extended beyond the lines.

SECT. 6. No wharf, pier or building, or incumbrance of any kind, shall ever hereafter be extended beyond the same lines into or over the tide-water in said harbor.

Present wharves not to be extended.

SECT. 7. No person shall enlarge or extend any wharf or pier, which is now erected on the inner side of the said lines further towards the said lines than such wharf or pier now stands, or than the same might have been lawfully enlarged or extended before the passing of this act, without leave first obtained in due form of law.

Excavations made when new structures, &c.

SECT. 8. No person shall hereafter build or extend any wharf, pier or other structure, in any part of the harbor of Boston, beyond the riparian lines, unless such person shall excavate from the flats in said harbor adjacent, between high and low-water mark, a quantity of material equal in bulk to the quantity of water displaced by said structure, unless by authority of the legislature.

Persons offending to be deemed guilty of misdemeanor, &c.

SECT. 9. Every person offending against the provisions of this act, shall be deemed guilty of a misdemeanor, and shall be liable to be prosecuted therefor, by indictment or information, in any court of competent jurisdiction, and, on conviction, shall be punished by a fine not less than one thousand dollars nor more than five thousand dollars, for every offence; and any erection or obstruction which shall be made, contrary to the provisions and intent of this act, shall be liable to be removed and abated as a public nuisance, in the manner heretofore provided for the removal and abatement of nuisances on public highways. [*Approved by the Governor, June 6, 1856.*]

Chap. 294 AN ACT relating to the Board of Commissioners on Alien Passengers and State Paupers.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Appointment of commissioners.

SECT. 1. The governor and council shall, upon the passage of this act, appoint a suitable person, for a term of

three years, who, with the auditor of accounts of the Commonwealth, and the superintendent of alien passengers for the city of Boston, shall constitute a board of commissioners on alien passengers and State paupers, and said commissioners shall have all the powers and perform the duties of the "Board of Commissioners in relation to Alien Passengers and State Paupers," appointed under the provisions of the three hundred and forty-second chapter of the acts of the year one thousand eight hundred and fifty-one.

SECT. 2. At the expiration of said term, and hereafter, whenever a vacancy shall occur, there shall be appointed, to fill the vacancy in said board, a person who shall hold the office for a term of three years.

SECT. 3. The said commissioners shall have the same power to bind, as apprentices, minors who are inmates of the hospital at Rainsford Island, and the same powers, respectively, in relation to any State paupers who are now or may hereafter become inmates of the same, or of either of the lunatic asylums in this Commonwealth, and their property, if they have any, or any property left by them, in case of their decease, as are by law vested in towns, and in the overseers of the poor in towns, in reference to those paupers who are in any way supported or relieved by towns.

SECT. 4. So much of the first section of the three hundred and forty-second chapter of the acts of the year one thousand eight hundred and fifty-one, as requires the governor and council to appoint a member of the council upon the "Board of Commissioners in relation to Alien Passengers and State Paupers," is hereby repealed. [*Approved by the Governor, June 6, 1856.*]

AN ACT to change the corporate Name of "The Trustees of the Brimfield Free Grammar School." *Chap. 295*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The institution established by act of the legislature, of April sixth, one thousand eight hundred and fifty-five, in the town of Brimfield, in the county of Hampden, under the corporate name of "The Trustees of the Free Grammar School in Brimfield," is hereby authorized to take the name of the "Hitchcock Free Grammar School," and all votes hereafter passed, and acts done by the trustees, under the said title, shall be valid.

SECT. 2. This act shall take effect from and after its passage. [*Approved by the Governor, June 6, 1856.*]

Chap. 296 AN ACT to promote the Public Safety and Convenience, by a Bridge at the intersection of the Boston and Lowell, the Fitchburg and the Grand Junction Railroads, in Somerville.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Change in construction of railroads.

SECT. 1. The Fitchburg Railroad Company, and the Grand Junction Railroad and Depot Company, are hereby authorized to lower so much of the surface of their railroads, as is hereinafter indicated, and the Boston and Lowell Railroad Corporation are hereby authorized to raise the surface of their railroad, so that the Fitchburg Railroad and the Grand Junction Railroad may pass under the said Boston and Lowell Railroad, in Somerville, at or near the point where said railroads now cross at grade.

Bridge to be on abutments.

SECT. 2. The bridge required for that purpose shall be supported on abutments of good and substantial stone masonry; those portions thereof below the present rail surface of the said railroads shall be built and maintained by the Fitchburg Railroad Company; and those portions of said rail surface above said rail surface, as well as the superstructure of said bridge, shall be built and maintained by the Boston and Lowell Railroad Corporation. The said superstructure of said bridge, when completed, shall be, in its lowest part, full five feet four and one-half inches above the present level of the top of the rails at said crossing. It shall also be of such span that the two tracts of the Fitchburg Railroad and the track of the Grand Junction Railroad and Depot Company may pass between the abutments, with a clear space of four feet between each outermost rail and the corresponding abutment. The tracks of the Fitchburg Railroad shall retain their present direction, and a clear space of six feet shall be left between the two tracks of the said Fitchburg Railroad, and a clear space of eight feet six inches between the north track of said Fitchburg Railroad and the track of the Grand Junction Railroad, the last mentioned track to be moved northward for that purpose, so that a line of iron pillars may be erected midway of the last mentioned space, to aid in the support of said bridge superstructure, which shall, in other respects, be supported only at the abutments.

Dimensions of bridge.

Power to change grade, take land, &c.

SECT. 3. For the purposes aforesaid, the said Fitchburg Railroad Company and the Boston and Lowell Railroad Corporation are empowered to make any changes in the grade and construction of their railroads, also to raise, lower, or otherwise change any highways, townways or passage-ways

and connecting tracks, so far as may be necessary for the execution of the above mentioned works, with the consent of the county commissioners of the county of Middlesex. They are also authorized to take any land, or rights in land, for the widening of their embankments or cuttings, or for the construction of temporary side tracks, to prevent the interruption of their business during the progress of said work; they may also take land for drainage or other purposes necessary or incidental: *provided*, that for all land and rights in land thus taken, they shall make compensation according to law, and shall also file a location, according to law, for all land thus taken for permanent occupation. And the Fitchburg Railroad Company is hereby authorized and required to remove so much of the embankment and road bed of the Grand Junction Railroad and Depot Company, as lies within the limits of the land taken by said last named company from the Fitchburg Railroad Company, or within the limits of the land taken from the Boston and Lowell Railroad Corporation, as will make the main track of the railroad of the Grand Junction Railroad and Depot Company correspond in level with those of the Fitchburg Railroad, within said limits; such work, so far as the same shall fall within the limits of the land occupied by the Fitchburg Railroad and Grand Junction Railroad, in juxtaposition or at their intersection, shall be executed by said Fitchburg Railroad Company, under the supervision of a commissioner to be appointed by the governor, as hereinafter provided—by which commissioner, the cost of the same, when completed, including the cost incurred by said Fitchburg Railroad Company in erecting and maintaining their portion of the abutments and other masonry of said bridge, shall be apportioned between said two companies, as shall by him be deemed equitable; and should the award of said commissioner not be promptly paid by the Grand Junction Railroad and Depot Company, the Fitchburg Railroad Company may recover a fair and just proportionate part of the cost incurred by them in lowering said tracks and road beds, and in furnishing materials for and constructing said railroad bridge and its appendages, from said Grand Junction Railroad and Depot Company, with costs, in an action of contract, in the supreme judicial court, in either of the counties of Middlesex or Suffolk; and if the defendants therein shall fail to pay to the plaintiffs the amount of the judgment in said suit, the said court shall, on application of the plaintiffs, grant an injunction to prevent the said defendants, their successors and assigns, from using or running their railroad

Proviso.

Location filed

Work to be done under supervision of commissioner.

Proceedings if failure to pay award.

in Somerville, south or west of the estate of Elizabeth Joy, until said judgment shall be paid, without prejudice to the other remedies of the plaintiffs.

Costs, &c., in case of connection with other roads.

SECT. 4. In case the Grand Junction Railroad and Depot Company shall require a connection between the Boston and Lowell Railroad and the Grand Junction Railroad and the Fitchburg Railroad, or either of them, to be maintained near said bridge, the cost of maintaining a connection shall be included in the cost of making said bridge, and the work above the present rail surface shall be performed by the Boston and Lowell Railroad, and the work beneath such surface shall be performed by the Fitchburg Railroad Company in the manner herein before stated; and the cost of performing the same and providing materials therefor shall be added to the cost of doing the work and providing materials for said bridge to be incurred by said Fitchburg Railroad Company, and shall be included in said award; and if said award be not paid, a just and fair proportion of such cost may be recovered by them in said action from said Grand Junction Railroad and Depot Company. And said last named company are hereby authorized to take any land on the northerly side of their present location, that may be required for altering their side track and switches, paying for said land, and filing a location thereof according to law; and the cost thereof shall constitute a part of the cost of said bridge, and be credited to the party taking the same.

May use each other's tracks.

SECT. 5. The Fitchburg Railroad Company is hereby authorized to make use of the track of the Grand Junction Railroad, for the passage of trains, whenever its own track is obstructed during the progress of the said work; and the said Grand Junction Railroad and Depot Company may, also, under like circumstances, and during said period and no longer, make use of so much of the tracks of the Fitchburg Railroad, for the passage of trains, as lie between the west end of Prison Point Bridge and Milk Street, in Somerville; and each party shall be allowed by the other a fair compensation for such use.

Former acts defined.

SECT. 6. And it is hereby expressly declared that it was not the intention of any act prior to this act to authorize, nor did it authorize the Grand Junction Railroad and Depot Company, or the companies which composed it, to take or hold either of the main tracks of the Fitchburg Railroad in said Somerville, or the land required for running trains thereon. And the said Fitchburg Railroad Company shall

retain both of their said main tracks in said Somerville, for the exclusive use of their said company, and of all other railroad companies that have been or shall be expressly authorized to enter upon and use the same according to law; and may include the said main tracks and land in the new location of their railroad and branches which they are empowered to make by law. And the location of the Grand Junction Railroad and Depot Company in said Somerville, so far as it lies on the northerly side of the northerly track of said Fitchburg Railroad and of the strip of land required for running trains thereon, and so far as it intersects in crossing the main tracks of said Fitchburg Railroad with a width not exceeding twenty-four feet in crossing, is hereby confirmed; subject, however, to the changes herein authorized, and subject to all claims for damages caused by the location and construction of said Grand Junction Railroad; and said Grand Junction Railroad and Depot Company shall have no power to use either of said main tracks of the Fitchburg Railroad Company except as provided for in section five of this act.

SECT. 7. Nothing herein shall be so construed as to authorize either of said companies to take any additional land from the estate of Elizabeth Joy. Restriction.

SECT. 8. For the supervision and apportionment contemplated in the third section of this act, a commissioner shall be appointed by the governor, with the advice of his council, on application of any two of said three companies, the compensation of which commissioners shall be a part of the cost of said work. Commissioner appointed on application, &c.

SECT. 9. This act shall take effect from and after its passage. [*Approved by the Governor, June 6, 1856.*]

AN ACT in addition to an Act concerning Lines in Boston Harbor.

Chap. 297

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The act of the year of our Lord one thousand eight hundred and fifty-five, chapter three hundred and ten, is hereby revived, and shall take effect from and after the passage of this present act, and the fifth section of said act shall be extended two years. [*Approved by the Governor, June 6, 1856.*] Act revived and extended.

Chap. 298 AN ACT to establish additional Terms of the Court of Common Pleas in the County of Worcester.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Terms established at Fitchburg.

SECT. 1. In addition to the terms of the court of common pleas now provided to be holden within and for the county of Worcester, three terms of said court shall be held in the town of Fitchburg, as follows, viz. : on the first Monday in February and June, and the fourth Monday in October, in each year, after the first day of August, in the year one thousand eight hundred and fifty-six.

Terms for civil and criminal business.

SECT. 2. The terms of the court herein provided to be holden on the first Monday of February and the fourth Monday in October, in each year, shall be for the transaction of civil business ; and the term to be holden on the first Monday of June, in each year, shall be for the transaction of criminal business.

SECT. 3. This act shall take effect on and after its passage. [*Approved by the Governor, June 6, 1856.*]

Chap. 299

AN ACT to authorize Donald McKay to build a Wharf.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Wharf in East Boston.

Donald McKay, proprietor of land and flats situated in that part of Boston called East Boston, fronting on Border Street, lying between and adjoining other land and flats of said McKay, formerly of Lombard and Whitmore, and land and flats of the East Boston Company, is hereby authorized to build, extend and maintain a wharf from his said premises into the harbor channel, as far as the commissioners' line, so called, is now established by law, in Boston Harbor, and shall have the right to lay vessels at the end and sides thereof, and to receive wharfage and dockage therefor : *provided, however*, that this grant shall not be construed to extend to any flats or land of this Commonwealth, lying in front of the flats of any other person, or which would be comprehended by the true line of such flats continued to the said commissioners' line ; and *provided, further*, that so much of said wharf as may be constructed below low-water mark, shall be built on piles, which piles shall not be nearer to each other than six feet in the direction of the stream, and eight feet in a transverse direction, and that this act shall in no wise impair the legal rights of any person whatsoever. [*Approved by the Governor, June 6, 1856.*]

Rights, &c.

Provide.

Provided, further.

AN ACT to change the Name of the Amesbury Street Baptist Society and to legalize the doings thereof. *Chap. 300*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The Amesbury Street Baptist Society, in Lawrence, are hereby authorized to take the name of the First Baptist Society in Lawrence, and shall hereafter be known by said name. Name changed.

SECT. 2. All acts and proceedings of the Amesbury Street Baptist Society in Lawrence, under the name of the First Baptist Society in Lawrence, all conveyances, mortgages, and promissory notes heretofore given by them under said last mentioned name, are confirmed and declared binding on said Amesbury Street Baptist Society, in the same manner and to the same extent they would be if they had been done and made in the name of the Amesbury Street Baptist Society: *provided*, that the said Amesbury Street Baptist Society shall, at a meeting duly called for that purpose, approve and ratify all the aforesaid acts and proceedings. Proceedings legalized. Proviso.

SECT. 3. This act shall take effect from and after its passage. [*Approved by the Governor, June 6, 1856.*]

AN ACT to protect Boston Harbor.

Chap. 301

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Any person who shall take, carry away, or remove by land or water, any stones, gravel or sand, from any of the beaches, head-lands or islands, within or bordering upon Boston Harbor, without a license therefor from the mayor and aldermen of the city of Boston, shall, for each offence, forfeit a sum not exceeding twenty dollars, to be recovered by complaint or indictment in any court of competent jurisdiction. Penalty for carrying away stones, gravel, &c.

SECT. 2. Boston Harbor, for the purposes of this act, shall be deemed to extend to a line drawn from the outer end of Commercial Point, in the town of Dorchester, direct to the outer end of Point Alderton, in the town of Hull; thence to the outer end of the outer Brewster Island, and thence direct to the Short Beach, at the division line between the towns of North Chelsea and Winthrop. Limits of Boston Harbor.

SECT. 3. All acts and parts of acts, inconsistent with this act, are hereby repealed. Inconsistent acts repealed.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, June 6, 1856.*]

Chap. 302

AN ACT to incorporate the Malden and Melrose Railroad Company.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.

SECT. 1. Daniel P. Wise, George W. Wilson, Daniel W. Gooch, Daniel Perkins, John Shelton, their associates and successors, are hereby made a corporation by the name of

Power to construct railway.

the Malden and Melrose Railroad Company, with power to construct, maintain and use a railway or railways, with convenient single or double tracts, from such point or points

Location.

in the town of Melrose, as shall be fixed by the selectmen of said town, with the assent of such corporation, in writing expressed, and filed with said selectmen, and upon and over such of the streets and highways of said town as shall be, from time to time, fixed and determined by said selectmen, with the written assent of said corporation, filed as aforesaid, to the intersection of the same with the streets and highways of the town of Malden, and thence upon and over such of said streets and highways of the town of Malden, as shall be, from time to time, fixed and determined by the selectmen of said Malden, with the assent, in writing, of said corporation, filed with the said selectmen, to Malden Bridge, thence over said Malden Bridge, using such part thereof, and so constructing said railway or railways, and paying such toll or compensation as may be agreed upon between the proprietors of said Malden Bridge and said railroad corporation; and, in case of disagreement between said proprietors and said railroad corporation, as to the part of said bridge to be so used, or as to the mode of construction of said railway or railways, or as to the rate of toll or compensation to be paid by said railroad corporation, the same shall be fixed and determined by three commissioners, to be appointed by the supreme judicial court; thence upon and over such of the streets of the city of Charlestown as shall be, from time to time, fixed and determined by the mayor and aldermen of said city, with the assent, in writing, of said corporation, and also over and on such other land in said Melrose, Malden and Charlestown, as said corporation may elect to build their road or roads over and upon, to some convenient point of intersection, in said Charlestown, with the railroad of the Middlesex Railroad Company; such point of intersection to be fixed by the city council of the said city of Charlestown;

and all tracks of said railroad shall be laid at such distances from the side-walks in said towns and city, as the selectmen of said towns, and the mayor and aldermen of said city shall, respectively, in their orders fixing the route of said railroad, determine. And said corporation shall have power to fix, Rates of fare. from time to time, such rates of compensation for transporting persons or property, as they may think expedient; and shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes. Notice to abutters on streets in which it may be proposed to lay the tracks of said corporation, shall be given by the publication, Notice to abutters. in one or more newspapers published in said city of Charlestown, fourteen days, at least, before the location of any such tracks, and also by posting in three public places in each of said towns, and in said city, notice of said proposed location, fourteen days, at least, before the same shall be made.

SECT. 2. The corporation hereby created, may enter upon and use the track of the Middlesex Railroad Company in such mode, and upon such rates of compensation, as may be agreed upon; or, in case of disagreement, such mode and rates shall be fixed by three commissioners, to be appointed by the supreme judicial court. May enter upon and use other railroads.

SECT. 3. Said tracks, or roads, shall be operated and used by said corporation, with horse-power only. Operated by horse-power only. The selectmen of said towns, and the mayor and aldermen of said city, shall have power, at all times, to make all such regulations, as to the rate of speed and mode of use of the tracks, as the public convenience and safety may require.

SECT. 4. Said corporation shall keep and maintain in repair, such portion of the street and bridges, respectively, as shall be occupied by their tracks, and shall be liable for any loss or injury that any person may sustain, by reason of any carelessness, neglect or misconduct of its agents and servants, in the management, construction or use of said tracks, roads or bridges; and, in case any recovery shall be had against either of said towns, or the said city, by reason of such defect or want of repair, said corporation shall be liable to pay to such towns, or to said city, respectively, or either of them, any sums thus recovered against them, together with all costs and reasonable expenditures incurred by them respectively, in the defence of any such suit or suits, in which recovery may be had; and said corporation shall not incumber any portion of the streets or bridges, not occupied by said road or tracks. Repairs, &c.

SECT. 5. If any person shall wilfully and maliciously

Penalty for obstructing corporation. obstruct said corporation in the use of said road or tracks, or the passing of the cars or carriages of said corporation thereon, such person, and all who shall be aiding or abetting therein, shall be punished by a fine not exceeding five hundred dollars, or may be imprisoned in the common jail for a period not exceeding three months.

Penalty if corporation shall obstruct. SECT. 6. If said corporation, or its agents or servants, shall, wilfully and maliciously, obstruct any highway, or the passing of any carriages over the same, such corporation shall be punished by a fine not exceeding five hundred dollars.

Capital stock, \$200,000, in shares of \$100 each. SECT. 7. The capital stock of said corporation shall not exceed two hundred thousand dollars, to be divided into shares of one hundred dollars each; and no shares in the capital stock shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

May purchase necessary real estate. SECT. 8. Said corporation shall have power to purchase and hold such real estate, within said towns, or either of them, as may be convenient or necessary for the purposes and management of said road.

Selectmen, &c., to determine grade. SECT. 9. The said road shall be constructed and maintained in such form and manner, and upon such grade, as the selectmen of said towns, or the mayor and aldermen of said city, respectively, may, in their votes fixing and determining the routes thereof, as aforesaid, prescribe and direct; and whenever, in the judgment of said corporation, it shall be necessary to alter the grade of any street so occupied by it, such alteration may be made at the sole expense of said corporation: *provided*, the same shall be assented to by the selectmen of the town or the mayor and aldermen of said city, within which such alteration is to be made.

Act not to prevent selectmen, &c., taking up streets. SECT. 10. Nothing in this act shall be construed to prevent the selectmen of either of said towns, or the mayor and aldermen of said city, from entering upon, and taking up any of the public streets or bridges, traversed by said railroad, for any purpose for which they may now lawfully take up the same.

Act void unless, &c. SECT. 11. This act shall be void, so far as relates to the right to construct said road in either of said towns or said city, unless the same shall be accepted by the selectmen of such towns and the mayor and aldermen of said city, respectively, and unless the same shall be accepted by said corporation, and unless ten per cent. of the capital stock thereof shall be paid in within three years from and after the passage of this act.

SECT. 12. Said corporation shall be deemed a railroad corporation, so far as to be subject to make such annual returns to the legislature as are, or may be, prescribed by law, and also so far as to be subject to all existing provisions of law for the assessment and payment of damages for the land, outside of the streets, taken by them for their track, but not to the other general provisions of law in relation to railroad corporations. [*Approved by the Governor, June 6, 1856.*]

Corporation to make annual returns, but, &c.

AN ACT to incorporate the Society for the relief of Aged Women, in Salem. *Chap. 303*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Daniel A. White, Stephen C. Phillips, John Bertram, Ripley Ropes and John Ball, their associates and successors, are hereby made a corporation by the name of The Society for the relief of Aged Women, in Salem, for the purpose of taking, holding, investing and distributing such funds as they now have or may hereafter be given them, for the charitable and benevolent objects of their society; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECT. 2. Said corporation shall have power to establish such rules and regulations for the management of their society, as a majority of the members may, from time to time, determine to be expedient and proper.

Rules, &c.

SECT. 3. Said corporation shall be empowered to hold real and personal estate to an amount not exceeding fifty thousand dollars.

Real and personal estate not to exceed \$50,000.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, June 6, 1856.*]

AN ACT to authorize Luther Drew to build a Wharf.

Chap. 304

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Luther Drew, proprietor of land and flats, situated in that part of Boston called East Boston, fronting on Marginal Street, lying between and adjoining land and flats of Donald McKay, and land and flats of the Grand Junction Railroad and Depot Company, is hereby authorized to build, extend and maintain a wharf from his said premises into the harbor channel, as far as the commissioners' line, so called, is

Wharf in East Boston.

Rights, &c. now established by law in Boston Harbor, and shall have the right to lay vessels at the end and sides of said wharf, and to receive wharfage and dockage therefor: *provided, however*, that this grant shall not be construed to extend to any flats or land of this Commonwealth, lying in front of the flats of any other person, or which would be comprehended by the true lines of such flats, continued to the said commissioners' line; and *provided, further*, that so much of said wharf as may be constructed below low-water mark shall be built on piles, which piles shall not be nearer to each other than six feet in the direction of the stream, and eight feet in a transverse direction, and that this act shall in no wise impair the legal rights of any person whatever. [Approved by the Governor, June 6, 1856.]

Chap. 305

AN ACT concerning the location of the Eastern Railroad.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Location confirmed

SECT. 1. The location of the railroad of the Eastern Railroad Company, and said railroad and its branches, as the same are actually laid out and constructed, in the counties of Essex, Middlesex and Suffolk, are hereby ratified and confirmed.

May file new location, &c., within one year

SECT. 2. In order to correct any informality or insufficiency in the location of said railroad and its several branches, heretofore filed, the said corporation is hereby authorized, at any time within one year from the passage of this act, to file with the county commissioners of Essex, Middlesex and Suffolk, respectively, new locations of said railroad and its several branches, defining the courses, distances and boundaries of such portions thereof, as lie within the said counties, respectively, in conformity with the actual construction of said railroad and branches, as already built, which said new locations, when filed, shall be valid and sufficient in law, to all intents and purposes: *provided*, that nothing herein contained, shall affect the legal rights of any person to damages, whose land may have been taken heretofore by said corporation, and not settled for under the existing laws.

Provide

SECT. 3. This act shall take effect from and after its passage. [Approved by the Governor, June 6, 1856.]

AN ACT to authorize the Agent of Charles River and Warren Bridges to lease a Wharf adjoining Warren Bridge. *Chap. 306*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The agent of the Charles River and Warren Bridges is hereby authorized to lease, for a period not exceeding ten years from the expiration of the present lease thereof, the southern portion of the wharf adjoining Warren Bridge, on the westerly side thereof, for the purpose of a bathing-house : *provided*, that this act shall not be construed to authorize said agent to lease any premises over which the Fitchburg Railroad Company were authorized to widen their bridge, by the two hundred and thirtieth chapter of the acts of the year one thousand eight hundred and fifty-five, nor in any manner affect the rights of any parties under said act ; and *provided, further*, that said lease shall be approved by the governor and council. [*Approved by the Governor, June 6, 1856.*]

AN ACT to divide the Commonwealth into Districts for the choice of Councillors. *Chap. 307*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. For the purpose of choosing councillors, the Commonwealth is hereby divided into eight councillor districts, each of which shall, in the manner prescribed by the constitution and the laws, elect one councillor.

SECT. 2. The said eight districts shall be as follows, to wit: The counties of Barnstable, Dukes and Nantucket, together with the towns of Abington, Carver, Duxbury, Halifax, Hanover, Hanson, Kingston, Lakeville, Marion, Marshfield, Middleborough, Pembroke, Plymouth, Plympton, Rochester, Scituate, South Scituate and Wareham, in the county of Plymouth ; the cities of Fall River and New Bedford, and the towns of Dartmouth, Fairhaven, Freetown, Somerset, Swanzy and Westport, in the county of Bristol, shall form one district, and be called DISTRICT NUMBER ONE.

The towns of Bridgewater, East Bridgewater, North Bridgewater, West Bridgewater, Hingham and Hull, in the county of Plymouth ; Attleborough, Berkley, Dighton, Easton, Mansfield, Norton, Pawtucket, Raynham, Rehoboth, Seekonk and Taunton, in the county of Bristol ; Bellingham, Braintree, Canton, Cohasset, Dedham, Dorchester, Foxborough, Franklin, Medfield, Medway, Milton, Quincy,

Randolph, Sharon, Stoughton, Walpole, Weymouth and Wrentham, in the county of Norfolk; and Blackstone, Mendon, Milford, Northbridge and Uxbridge, in the county of Worcester, shall form one district, and be called DISTRICT NUMBER TWO.

District No. 3. The city of Roxbury, and the towns of Brookline, Dover, Needham and West Roxbury, in the county of Norfolk; the cities of Cambridge and Charlestown, and the towns of Ashland, Brighton, Framingham, Holliston, Hopkinton, Natick, Newton, Sherborn, Somerville, Wayland and Weston, in the county of Middlesex; and the wards numbered five, six and nine, in the city of Boston, in the county of Suffolk, shall form one district, and be called DISTRICT NUMBER THREE.

District No. 4. The wards numbered one, two, three, four, seven, eight, ten, eleven and twelve, in the city of Boston, and the towns of Chelsea, North Chelsea and Winthrop, in the county of Suffolk, shall form one district, and be called DISTRICT NUMBER FOUR.

District No. 5. The cities and towns in the county of Essex, excepting the towns of Andover and Methuen, shall form one district, and be called DISTRICT NUMBER FIVE.

District No. 6. The towns of Andover and Methuen, in the county of Essex, and the city of Lowell, and the towns of Acton, Ashby, Bedford, Billerica, Boxborough, Burlington, Carlisle, Chelmsford, Concord, Dracut, Dunstable, Groton, Lexington, Lincoln, Littleton, Malden, Marlborough, Medford, Melrose, North Reading, Pepperell, Reading, Shirley, South Reading, Stoneham, Stow, Sudbury, Tewksbury, Townsend, Tyngsborough, Waltham, Watertown, West Cambridge, Westford, Wilmington, Winchester and Woburn, in the county of Middlesex; and Bolton, Clinton, Fitchburg, Harvard, Lancaster, Leominster and Lumburg, in the county of Worcester, shall form one district, and be called DISTRICT NUMBER SIX.

District No. 7. The city of Worcester and the towns of Ashburnham, Athol, Auburn, Barre, Berlin, Boylston, Brookfield, Charlton, Dana, Douglas, Dudley, Gardner, Grafton, Hardwick, Holden, Hubbardston, Leicester, Millbury, New Braintree, Northborough, North Brookfield, Oakham, Oxford, Paxton, Petersham, Phillipston, Princeton, Royalston, Rutland, Shrewsbury, Southborough, Southbridge, Spencer, Sterling, Sturbridge, Sutton, Templeton, Upton, Warren, Webster, Westborough, West Boylston, West Brookfield, Westminster and Winchendon, in the county of Worcester; and the

several towns in the county of Franklin, shall form one district, and be called DISTRICT NUMBER SEVEN.

The counties of Berkshire, Hampden and Hampshire shall form one district, and be called DISTRICT NUMBER EIGHT.

District No. 8.

SECT. 3. The qualification of the voters for councillors, the time, manner and declaration of the election and the return of the votes, shall be such as are required in the election of governor.

Qualification of voters, &c., same as for governor.

SECT. 4. All laws in force, in relation to the duties of sheriffs, town and city officers and voters, in the election of governor, senators and representatives of this Commonwealth, shall, as far as the same may be applicable, apply and be in force in regard to the meetings and elections to be held, and the returns to be made under the provisions of this act, respecting the choice of councillors; and the like penalties shall be incurred for the violation thereof. [*Approved by the Governor, June 6, 1856.*]

Existing laws applicable in election of councillors.

AN ACT concerning the Superior Court of the County of Suffolk, and the Court of Common Pleas.

Chap. 308

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. The words "three thousand" are hereby substituted for the words "fifteen hundred," wherever the latter occur in the third and fourth sections of the four hundred and forty-ninth chapter of the acts of the year eighteen hundred and fifty-five.

Jurisdiction enlarged to \$3,000.

SECT. 2. The fourteenth section of the last mentioned act is so far amended as that the clerk, instead of the salary therein provided, shall retain for his services, from the fees received by him and for which he is to account, the sum of three thousand dollars per annum, if such fees amount to so much, and the balance he shall pay over to the treasurer of the city of Boston, for the use of said city, annually.

Salary of clerk

SECT. 3. Nothing in this act shall be construed to release said city from its proper contribution to the maintenance of the court of common pleas prior to the establishment of the said superior court. [*Approved by the Governor, June 6, 1856.*]

Boston to contribute to maintenance of C. C. Pleas.

Chap. 309

AN ACT to incorporate the Titicut Academy, of Middleborough.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.	SECT. 1. Isaac Pratt, Morrill Robinson, Zebulon Pratt, their associates and successors, are hereby made a corporation by the name of the Titicut Academy, to be established in the town of Middleborough, in the county of Plymouth ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.
Name.	
Privileges, restrictions, &c.	
Real estate, \$15,000.	SECT. 2. Said corporation may hold real estate to the amount of fifteen thousand dollars, and personal estate to the amount of ten thousand dollars ; to be exclusively devoted to the purposes of education.
Personal estate, \$10,000.	SECT. 3. This act shall take effect from and after its passage. [<i>Approved by the Governor, June 6, 1856.</i>]

Chap. 310

AN ACT to incorporate the Globe Insurance Company, in Boston.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

Corporators.	SECT. 1. William Appleton, Josiah Bradlee and William F. Weld, their associates and successors, are hereby made a corporation by the name of the Globe Insurance Company, of Boston, for the purpose of making insurance against losses by fire and maritime losses ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, the four hundred and fifty-third chapter of the acts of eighteen hundred and fifty-four, and all other general laws in force relating to insurance companies, except as hereinafter provided.
Name.	
Purpose	
Privileges, restrictions, &c.	
Capital, \$1,000,000, in shares of \$100 each.	SECT. 2. Said company shall have a capital of one million dollars, to be divided into shares of one hundred dollars each, to be paid in and invested as follows: Before any policies shall be issued, fifty per cent. of said capital shall be paid in cash, and invested according to the laws of this Commonwealth regulating insurance companies with specific capital ; and the residue of said capital shall be paid by notes of the stockholders, payable on demand, without interest, and secured by pledge of the stock held by said stockholders ; and no part of said stock shall be transferred, until the full amount of notes secured thereby has been paid in cash, or said stock shall be transferred, subject to the lien
Fifty per cent. to be paid in before policies issue.	
Residue of capital, how paid.	

thereon for payment of said notes, to be expressed in the instrument of transfer.

SECT. 3. Said company shall set apart annually, all its profits over and above six per cent. of its unimpaired capital, paid in and invested as aforesaid, as a reserved fund, for the redemption of said stockholders' notes, which fund shall be invested in the same manner as its cash capital; and whenever said fund, with its accumulations, shall amount to ten per cent. of said notes, the same shall be ratably endorsed as a payment thereon, and so on from time to time, until said notes are fully paid.

Surplus profits
for redemption
of notes, &c.

SECT. 4. This act shall take effect from and after its passage. [*Approved by the Governor, June 6, 1856.*]

CHANGE OF NAMES.

SECRETARY'S OFFICE.

By the 256th chapter of the acts of 1851, entitled "An Act to provide for the Change of Names of Persons," it is provided that "the judges of probate for the several counties shall, annually, in the month of December, make a return, to the office of the Secretary of the Commonwealth, of all changes of names made under and by virtue of this act, and such returns shall be published in a tabular form, with the statutes of each year." And the following returns have been received at this Department in accordance with said act.

SUFFOLK.

George Barnard, takes the name of George Barnard Brown.

William Piggot Casey, takes the name of William Piggot.

James Gilleland, takes the name of James Gillingham.

Warren Gookin, takes the name of Warren Plummer Wilder.

Nellie Howe, takes the name of Emma Frances Colburn.

Susan Dillaway Irish, takes the name of Susan Dillaway Taylor.

Edwin Augustus Irish, takes the name of Edwin Augustus Taylor.

James Franklin Irish, takes the name of Frank Berry Taylor.

Samuel Keep, takes the name of Samuel Hamilton Keep.

Uriah Thomas Ling, takes the name of Uriah Thomas Stone.

John McCarter, takes the name of John Mason Carter.

Martha A. Morrow, takes the name of Martha A. Morse.

William Roddin, takes the name of William Brown Adams.

Mary Ann Robinson, takes the name of Frances Ella Butts.

Henrietta A. Smith, takes the name of Henrietta A. Reed.

Mary Ann Tancock, takes the name of Mary Ann Sharland.

William Brown Adams, takes the name of William Roddin.

Matilda Allen Fearing, takes the name of Matilda Fearing Allen.

Mary Elizabeth Fuller, takes the name of Mary Frances Williams.

John Gilligan, takes the name of John Gilligan Adams.

Decreed by Edward G. Loring, Judge of Probate for the County of Suffolk.

The date of the decree is not given in the return made to this office.

ESSEX.

April 3, 1855. Mary Snethen, of Salem, takes the name of Mary Snethen Abbott.

May 15. James Gott, 3d, of Rockport, takes the name of James Jabez Gott. Franklin Putnam Fish, of Andover, takes the name of Franklin Putnam.

Decreed by N. S. Howe, Judge of Probate for the County of Essex.

MIDDLESEX.

January 9, 1855. Thomas Saunders, of Lowell, takes the name of Thomas Edward Saunders.

February 20. Jackson McCartee, of Burlington, takes the name of Loring Mason Jackson.

March 6. James Alfred Loker, of Tewksbury, takes the name of Alfred J. Livingston. Mary Savory Price, of Lowell, (a minor,) takes the name of Mary Price Savory.

March 20. Mehitable S. Benson, of South Reading, (a minor,) takes the name of Sarah Benson Green. Frances Ellen Sawyer, of Lowell, (a minor,) takes the name of Frances Ellen Wright.

April 10. Charles Dearth, of Sherborn, takes the name of Charles Howe; and the name of his wife, and three children, who are minors, was changed to Howe. Henry Dearth, of Sherborn, takes the name of Henry Howe; and the name of his wife, and two children, who are minors, was changed to Howe. John Brown, of Charlestown, takes the name of John Manson Brown. Mary Jane Mosman, of Sudbury, (a minor,) takes the name of Mary Jane Smith. Michael Powell, of Cambridge, takes the name of Martin Powell.

May 15. Mazelli Augustus Benson, of Reading, (a minor,) takes the name of Ellen Benson Baldwin.

June 5. Idaetta Towne, of Lowell, (a minor,) takes the name of Idaetta Thompson.

June 12. George Washington Robinson, of Lexington, takes the name of George Dexter Robinson.

June 26. Ellen Euseba Montague, of Ashland, (a minor,) takes the name of Ella Euseba Sherman.

August 21. Malcom Holden, of Malden, (a minor,) takes the name of Howard Malcom Holden.

September 4. Josiah Cooledge McKenney, of Waltham, takes the name of Josiah Cooledge Hadley.

September 18. Patrick Driscoll, of Groton, takes the name of Frederick Driscoll.

November 13. George Michali, of Lincoln, (a minor,) takes the name of George Hayden.

December 4. Charlotte Louisa Hubbard, of Somerville, (a minor,) takes the name of Ella Frances Gooding.

December 18. Nathaniel Palmer, of Charlestown, takes the name of Nathaniel Palmer Leach; and his wife, Elizabeth P. Palmer, takes the name of Elizabeth Perkins Leach.

Decreed by S. P. P. Fay, Judge of Probate for the County of Middlesex.

WORCESTER.

April 3, 1855. Sylvanus N. Day, and Sophronia H. Day, his wife, of Millbury, adopt Frances Everline Livermore, and said Frances takes the name of Frances Everline Day.

May 1. Caleb Warren Dalrymple, of Shrewsbury, takes the name of Caleb Warren.

May 8. Ezra Batcheller, 2d, of North Brookfield, takes the name of Ezra Daniel Batcheller.

June 5. Sumner Haynes, and Abigail Haynes, his wife, of Leominster, adopt Edward Perkins, and said Edward takes the name of Edward Chalmers Haynes.

July 3. Eleazer Wheelock, and Mary W. Wheelock, his wife, of Worcester, adopt Charles Marvin Cleveland, and said Charles takes the name of Charles Cleveland Wheelock. Edward Alonzo Howe, of Barre, takes the name of Alonzo Edward Gibson.

August 7. John Chamberlain, and Mehitable Chamberlain, his wife, of Southborough, adopt Mary Ann Delon, and said Mary Ann takes the name of Laura Mehitable Chamberlain.

Decreed by Thomas Kinnicutt, Judge of Probate for the County of Worcester.

HAMPSHIRE.

April 3, 1855. Patrick Falvey, of Hadley, takes the name of Henry S. Falvey.

May 1. Epaphroditus C. Hubbard, and Sophia E. Hubbard, his wife, of Williamsburg, adopt Emma Cordelia Snow, (a minor,) about two years old, daughter of Alanson Snow, of Williamsburg, and said Emma takes the name of Emma Cordelia Hubbard.

July 3. John W. Temple, and Abigail Temple, his wife, of Northampton, adopt George Edgar Stowell, (a minor,) about four years old, son of Moses S. Stowell, of Amherst, and said George takes the name of George Stowell Temple.

August 7. Susan E. Cook, of Pelham, takes the name of Susan E. Babbit.

September 4. Joseph F. Tower, and Clarissa H. Tower, his wife, of Northampton, adopt Eliza Maria Gorman, (a minor,) about five years old, daughter of Eliza Gorman, of Northampton, and said Eliza takes the name of Eliza Maria Tower.

Decreed by Ithamar Conkey, Judge of Probate for the County of Hampshire.

HAMPDEN.

January, 1855. James Rodolphus Hoar, of Monson, takes the name of James Rodolphus Homer.

February. Abner Post Langdon, of Westfield, takes the name of Abner Post.

March. Elmira Ann Bond, takes the name of Almira Ann Dean.

June. Joseph W. Boot, late of Warren, R. I., (an infant,) takes the name of Joseph W. Wright.

August. Jennette Marsh, of Springfield, takes the name of Jennette Gilmore. Eliza Ann Goodell, of Springfield, takes the name of Mary Ella Street.

November. Phineas Clark, of Chicopee, takes the name of Charles Henry Smith.

Decreed by Oliver B. Morris, Judge of Probate for the County of Hampden.

FRANKLIN.

February 13, 1855. Charles D. Deth, of Erving, takes the name of Charles D. Gilmore.

December 18. Sumner Lincoln, of Rowe, takes the name of Increase Sumner Lincoln.

Decreed by Franklin Ripley, Judge of Probate for the County of Franklin.

BERKSHIRE.

June 5, 1855. Frederick C. Shumway, takes the name of Frederick Shumway Ford.

Decreed by Daniel N. Dewey, Judge of Probate for the County of Berkshire.

NORFOLK.

January 6, 1855. Ella Medora French, of Quincy, (a minor,) takes the name of Ella Medora French Parker.

April 14. Alonzo Howard, of Brookline, (a minor,) takes the name of Alonzo Potter Howard.

May 3. Mary A. Westcott, of West Roxbury, (a minor,) takes the name of Mary A. Dascomb. Annette W. Wyman, of Wrentham, (a minor,) takes the name of Annette W. Cobb.

May 26. Ella Josephine Dowe, of Quincy, (a minor,) takes the name of Ella Josephine Watson.

July 1. Lewis G. Seaver, of Dedham, (a minor,) takes the name of Lewis Seaver Dixon.

October 13. Alice Clayton Stoddard, of Hull, (a minor,) takes the name of Alice Clayton Baker.

November 17. Charles Everett Chase, of Foxborough, (a minor,) takes the name of Charles Everett Martin.

December 8. Emeline Gowell, of Weymouth, (a minor,) takes the name of Emeline Gurney.

Decreed by W. S. Leland, Judge of Probate for the County of Norfolk.

BRISTOL.

January 5, 1855. Michael Mulliken, of New Bedford, takes the name of Thomas Edward Mulliken White.

Decreed by Oliver Prescott, Judge of Probate for the County of Bristol.

PLYMOUTH.

February 27, 1855. Jesse Cahoon and Sarah Cahoon, of Wareham, adopt Betsey Maria Pittsley, (a minor,) and said Betsey takes the name of Betsey Maria Cahoon.

June 5. John Dubbs, of Hingham, takes the name of John Deering. Jared Bracket and Abby A. Bracket, of Marshfield, adopt Grace Lawrence, (a minor,) and said Grace takes the name of Abby Grace Bracket.

July 3. Thacher Perry and Almira Perry, of Pembroke, adopt Lemira Jenness Morrow, (a minor,) and said Lemira takes the name of Mary Jenness Perry.

August 28. George A. Sawyer and Elizabeth W. Sawyer, of Taunton, adopt Henrietta Lewis, (a minor,) and said Henrietta takes the name of Annette Webster Sawyer.

September 24. Peleg Sprague Ellison, (a minor,) of Duxbury, takes the name of William Peleg Ellison.

Decreed by Aaron Hobart, Judge of Probate for the County of Plymouth.

BARNSTABLE.

March 13, 1855. Julia Maria Gervassio, of Barnstable, takes the name of Julia Maria Gervassio Oakes. Mary Augusta Crocker, of Brewster, takes the name of Martha Ann Crocker. Elizabeth Nealus, of Dennis, takes the name of Elizabeth Rogers. James M. Bacon and wife, of Barnstable, adopt Inis W. Barse, (a minor,) and said Inis takes the name of Inis W. Bacon. Torlston Fuller and wife, of Barnstable, adopt Prince Albert Hinekley, (a minor,) and he takes the name of Prince Albert Fuller.

June 19. Samuel Hallett and wife, of Barnstable, adopt Sophia Wilson Hinckley, (a minor,) and said Sophia takes the name of Sophia Wilson Hallett. Leonard Robbins and wife, of Harwich, adopt William R. Vredenburgh, (a minor,) and said William takes the name of William R. Robbins.

July 17. James Stiff and wife, of Barnstable, adopt Margaret Lyons, (a minor,) and said Margaret takes the name of Ellanora Stiff.

September 11. Gorham Brackett, of Yarmouth, takes the name of Gorham Brackett Knowles. Joshua Sears and wife, of Dennis, adopt Catharine Martin, (a minor,) and said Catharine takes the name of Louisa Maria Sears.

Decreed by George Marston, Judge of Probate for the County of Barnstable.

NANTUCKET.

October 6, 1855. Sarah Briggs takes the name of Sarah H. Briggs.

November 15. Franklin B. Chase, (a minor,) takes the name of Benjamin Franklin Chase.

Decreed by Samuel Mitchell, Judge of Probate for the County of Nantucket.

No application for change of name, under this act, has ever been made to the Judge of Probate for the County of Dukes County.

RESOLVES, GENERAL AND SPECIAL.

RESOLVE in favor of Henry A. Marsh.

Chap. 1.

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to Henry A. Marsh, the sum of thirty dollars, in full payment for his services as acting clerk of the house of representatives, during the organization thereof, at the commencement of the present session; and that a warrant be drawn accordingly. [*Approved by the Governor, January 15, 1856.*]

\$30 to acting clerk, during organization of legislature.

RESOLVE for the pay of the Legislature and its Officers, monthly.

Chap. 2.

Resolved, That there be paid, out of the treasury of the Commonwealth, to each member of the legislature, at the end of every month, during its session, the sum of seventy-five dollars: *provided,* it shall appear by the certificate of the clerk of either house that the pay of the member for the month, at three dollars per day, amounts to that sum; and each member shall submit to the clerk, in writing, a statement of the number of days he has been in attendance during the month. Also, that there be paid to the clerks, messengers, door-keepers and pages of the two houses, a proportionate sum, upon producing the proper certificate; and his excellency the governor is authorized to draw his warrant on the treasury, for a sum not exceeding one hundred and forty thousand dollars, for the purpose herein before specified. [*Approved by the Governor, January 26, 1856.*]

Monthly pay of members.

Chap. 3. RESOLVE authorizing the Treasurer to borrow Money in anticipation of the Revenue.

Treasurer may borrow necessary sums, not exceeding \$300,000.

Resolved, That the treasurer of this Commonwealth be, and he hereby is, authorized, until otherwise directed by the legislature, to borrow, in anticipation of the revenue, such sum or sums of money, as may from time to time, be necessary for the payment of the ordinary demands upon the treasury, within the current financial year; and that he shall repay any sum which he shall borrow, as soon as money sufficient for the purpose, and not otherwise appropriated, shall be received into the treasury: *provided, however*, that the whole amount borrowed by authority hereof, and remaining unpaid, shall not, at any time, exceed the sum of three hundred thousand dollars. [*Approved by the Governor, February 4, 1856.*]

Chap. 4. RESOLVE in favor of the Worcester South Agricultural Society.

Same allowance as if returns had been lawfully made.

Resolved, That there be paid, from the treasury of the Commonwealth, to the Worcester South Agricultural Society, such sum of money, as they would have been entitled to receive, in the year one thousand eight hundred and fifty-five, had their returns been made in conformity to law. [*Approved by the Governor, February 9, 1856.*]

Chap. 5. RESOLVES relative to the observance of the Birthday of Washington.

Washington's birthday.

Whereas, It is essential to the union, peace and prosperity of our common country, that there should be a constant recurrence to the principles which lie at the foundation of a republican government, and to that end, that the parting advice of Washington, at the close of his public life, should be ever held in sacred remembrance; therefore,

Legislature to meet in convention.

Resolved, That the two branches of the general court, will meet in convention, at twelve o'clock, meridian, on the twenty-second day of February, to commemorate the one hundred and twenty-fourth anniversary of the birthday of Washington.

"Farewell Address" to be read.

Resolved, That the "Farewell Address" to the people of the United States, published on the fifteenth of September, one thousand seven hundred and ninety-six, be read by the president of the convention.

Invitation to governor, &c.

Resolved, That his excellency the governor, his honor the lieutenant-governor, the members of the executive council, the chaplains of the two branches, and the officers of the various departments of State, be invited to be present on that occasion, and unite in paying so just a tribute to the memory of George Washington.

Resolved, That his excellency the commander-in-chief be National salute. requested to order a national salute, at twelve o'clock, noon, on that day. [*Approved by the Governor, February 20, 1856.*]

RESOLVE in favor of the Astor Library.

Chap. 6.

Resolved, That the secretary of the Commonwealth cause Books and documents to be transmitted to Astor Library. to be transmitted to the trustees of the Astor Library, located in the city of New York, for the use of said library, one copy of each of the first five printed volumes of the general court records of Massachusetts, one copy each of the printed volumes of the records of the Colony of New Plymouth, and, as far as may be at the disposal of the secretary, a complete set of the general laws and resolves of the State, the reports of the boards of education and agriculture, and of scientific, charitable and reformatory commissions, and of the annual bound documents. [*Approved by the Governor, February 26, 1856.*]

RESOLVE relating to the Massachusetts Convention of 1788.

Chap. 7.

Resolved, That the report of the proceedings of the Proceedings of convention of 1788 to be printed. Massachusetts Convention, of the year one thousand seven hundred and eighty-eight, be reprinted, under the direction of the committee on the library; that the same number be printed as of ordinary legislative documents; and that one copy be furnished to each member of the executive and legislative departments of the government for the present political year. [*Approved by the Governor, March 5, 1856.*]

RESOLVE on the Petition of John L. Priest and others.

Chap. 8.

Resolved, For reasons set forth in said petition, that John W. Hall, one of the persons named therein, administrator of the goods and estate of John F. Priest, with the will annexed, be, and he is hereby, authorized to sell at public auction or private sale, and on such terms and conditions as he may think proper, the premises mentioned or referred to in said petition, being the parcel of land bounded north-easterly on Winter Street, in the city of Boston, in the county of Suffolk, the same premises which were conveyed to said John F. Priest by Patrick T. Jackson, by deed bearing date the fourteenth day of June, in the year eighteen hundred and thirty-one, recorded in the registry of deeds for said county of Suffolk, lib. three hundred fifty-three, fol. one hundred seventeen,—of which estate said John F. Priest died seized,—and upon any such sale of real estate, to make, acknowledge and deliver a good and

Proviso.

sufficient deed or deeds, for conveyance thereof to the purchaser or purchasers, his or their heirs and assigns, in fee simple: *provided, however*, that said Hall shall first give bond to the judge of probate for said county of Suffolk for the time being, in such sum and with such surety or sureties as he shall approve, conditioned faithfully to hold, account for, pay over and divide the net proceeds of such sale to and among the persons who are, or may be legally entitled thereto, under the last will and testament of said John F. Priest, and in the proportions which may belong to them respectively, under the provisions of said last will and testament. [*Approved by the Governor, March 10, 1856.*]

Chap. 9.

RESOLVE relating to the Massachusetts Records.

Edition of Massachusetts Records to be printed.

Resolved, That the secretary of the Commonwealth be authorized to contract with William White, the present State printer, for the publication of an edition of the Massachusetts Records, to be printed from the stereotype plates belonging to the Commonwealth, and to be offered for sale to the public, at a reasonable price: *provided*, that said William White will agree to supply members of the legislature desiring copies, at the cost of printing; and no charge shall be made by the Commonwealth, for the use of the plates, if they are returned without damage or injury: and the printing and publication shall be executed without cost to the Commonwealth. [*Approved by the Governor, March 15, 1856.*]

Proviso.

Chap. 10. RESOLVE in favor of the Widow of John V. Low, late Assistant-Messenger to the Governor and Council, deceased.

Pay to widow of J. V. Low.

Whereas, By a resolve of the legislature of the year one thousand eight hundred and fifty-five, chapter sixteen, John V. Low, formerly an assistant-messenger to the governor and council, for a period of forty-two years, was entitled to receive, from the treasury of the Commonwealth, the same pay *per diem*, during said session, which he would have received had he been able to fulfil his duty as said assistant-messenger, he having been confined to his house by pulmonary consumption, said resolve entitling him to receive such pay for the "present year," to be paid at discretion of the governor and council; and that not having drawn the whole amount during said term, a balance still remains unpaid; therefore,

Resolved, That there be paid from the treasury of the Commonwealth, to Mrs. L. Low, widow of said Low, now deceased, the balance that should have been paid during the year one thousand eight hundred and fifty-five, upon said

resolve, she giving her receipt for the same. [*Approved by the Governor, March 17, 1856.*]

RESOLVES on the Petition of the Selectmen of Marshpee.

Chap. 11.

Resolved, That there be appropriated and paid, from the treasury of the Commonwealth, the sum of three hundred and fifty dollars, in addition to five hundred dollars granted by the legislature of the year one thousand eight hundred and fifty-five, for the purpose of repairing the meeting-house at Marshpee, the said sum to be expended under the same conditions and restrictions as the previous aforesaid grant. §350 additional for repairing meeting-house.

Resolved, That there be also appropriated and paid, from the treasury of the Commonwealth, the sum of two hundred dollars, for the proprietors aforesaid, to make up a deficit in the repairs and enlargement of two school-houses in said district of Marshpee, the said sum to be expended under the conditions and restrictions aforesaid. [*Approved by the Governor, March 21, 1856.*] §200 for repairing school-houses.

RESOLVE relative to the enlargement of the State House.

Chap. 12.

Resolved, That his excellency the governor, with the advice of the council, be authorized to draw his warrant upon the treasury, to an amount not exceeding the sum of five hundred and sixty-four dollars and eighty-nine one-hundredths, for the payment of such bills as have been incurred and are now outstanding, on account of the enlargement of the State House, after the same shall have been audited by the auditor of the Commonwealth. [*Approved by the Governor, March 21, 1856.*] §564.89 for enlargement of State House.

RESOLVES on the Petition of Jared Benson and others.

Chap. 13.

Resolved, For reasons set forth in said petition, that Caleb Thayer, one of said petitioners be, and he hereby is, authorized to sell the personal property and outlands of the late Jared Benson, mentioned in said petition, and convey the same, by proper deed or deeds, and invest and hold the proceeds thereof for the use and benefit of the devisees and legatees, named in the will of said Jared, in the same manner as the property itself would be holden under the provisions of said will; said sales to be made in the same manner as is provided by law, for sales by administrators by license of court. Sales, how made.

Resolved, That the judge of probate for the county of Worcester, be authorized to appoint three commissioners, to make partition of the homestead of said Jared Benson, deceased, among the devisees thereof for life, and that the Commissioners to divide homestead, &c.

share which shall be set to said devisees for life, respectively, shall, at their respective deaths, go to and become the sole property of such person or persons, as, by the terms of said will, would be entitled to the undivided share of such devisee for life at his decease. And said commissioners shall execute and return said commission in the same manner as is provided for the settlement and partition of intestate estates. [*Approved by the Governor, March 21, 1856.*]

Chap. 14. RESOLVE on the Petition of the Overseers of the Poor of the Town of Newbury.

§51 to treasurer
of Newbury.

Resolved, For the reasons set forth in said petition, that there be allowed and paid, out of the treasury of the Commonwealth, to the treasurer of the town of Newbury, the sum of fifty-one dollars, and that the governor be requested to draw his warrant therefor. [*Approved by the Governor, March 21, 1856.*]

Chap. 15. RESOLVE on the Petition of James W. Richardson.

§300 to James W.
Richardson.

Resolved, For reasons set forth in said petition, that there be allowed and paid, out of the treasury of the Commonwealth, to James W. Richardson, the sum of three hundred dollars, and that the governor be authorized to draw his warrant accordingly. [*Approved by the Governor, March 31, 1856.*]

Chap. 16. RESOLVE concerning the Quartermaster-General's Department.

§4,550 for ex-
penses of de-
partment.

Resolved, That the sum of four thousand five hundred and fifty dollars be, and the same is hereby, appropriated to defray the expenses of the quartermaster-general's department for the current year, and that warrants be drawn accordingly. [*Approved by the Governor, April 3, 1856.*]

Chap. 17. RESOLVE concerning the Journals and Papers of the House of Representatives.

§3,000 for indexes
of journals and
papers.

Resolved, That the clerk of this house cause to be completed, under his supervision, at an expense not exceeding three thousand dollars, the general index of the journals of the house of representatives, up to the close of the present session; and also to prepare a catalogue of the papers on file in the house, and make an index to the same, similar to the indexes and catalogues of the senate, and that the governor be authorized to draw his warrants for the payment of the expenses of the same accordingly. [*Approved by the Governor, April 5, 1856.*]

RESOLVE on the Petition of the Society of the Cincinnati of Massachusetts. *Chap. 18.*

Resolved, That the secretary of the Commonwealth be, and he hereby is, authorized to receive from the Society of the Cincinnati of Massachusetts, such books and documents as they may place in his charge,—and to keep the same with the archives of the Commonwealth, subject always to the order and control of the said society. [*Approved by the Governor, April 5, 1856.*]

Books to be kept with archives of Commonwealth.

RESOLVE in favor of the Town of Wilmington.

Chap. 19.

Resolved, That there be allowed and paid, out of the school fund of this Commonwealth, to the treasurer of the town of Wilmington, the sum of thirty dollars and twenty-four cents, being the amount of that town's proportion of the school fund for the year one thousand eight hundred and fifty-five, less ten per cent.; and that the governor be authorized to draw his warrant accordingly. [*Approved by the Governor, April 5, 1856.*]

\$30.24 as proportion of school fund.

RESOLVE in favor of the Herring Pond Indians.

Chap. 20.

Resolved, That, for reasons set forth in the petition, there be allowed and paid, out of the school fund of this Commonwealth, to the treasurer of the Herring Pond Indians, the sum of sixty dollars annually, for the term of five successive years, to aid in the support of the school among the Herring Pond Indians; and that a warrant be drawn therefor, from time to time, accordingly. And it shall be the duty of the treasurer aforesaid, in each year, to make a return of the condition of the school, and of the moneys expended therein, in the form prescribed in the act providing for the distribution of the income of the Massachusetts School Fund. [*Approved by the Governor, April 7, 1856.*]

\$60 annually, for five years, for support of school.

RESOLVE in favor of the Town of Berlin.

Chap. 21.

Resolved, That there be allowed and paid, out of the school fund of this Commonwealth, to the treasurer of the town of Berlin, the sum of forty dollars and thirty-eight cents, being the amount due said town as their proportion of the school fund for the year one thousand eight hundred and fifty-five, less ten per cent.; and that the governor be authorized to draw his warrant therefor accordingly. [*Approved by the Governor, April 7, 1856.*]

\$40.38 as proportion of school fund.

Chap. 22.

RESOLVES relative to a Scientific Survey of Boston Harbor.

Relative to survey of Boston Harbor.

Whereas, The absolute necessity of good harbors for a commercial nation to sustain its foreign and coasting trade, and to provide for the uses of its navy, makes it of the first importance that no effort should be spared to protect, preserve and improve the harbors upon our coast; and whereas, the great facilities of the harbor of Boston, for these several purposes, renders it imperative that every measure should be adopted to perpetuate and improve these advantages, and that nothing should be done which would impair its present condition for usefulness; therefore,

Congress requested to direct a survey, &c.

Resolved, That the congress of the United States be respectfully requested to direct a scientific survey to be made of the harbor of Boston, by a competent board of engineers, with authority to said board to proceed at once in the execution of that duty, with full powers to receive evidence, and to make all needful inquiries to enable them to present in their report well defined views of the character and condition of the harbor, and the means of preserving and improving the same, which can be made a reliable basis for all future legislative action with reference to structures that may, at any time hereafter, be projected about its shores or estuaries.

Transmission of resolves.

Resolved, That his excellency the governor be requested to transmit a copy of the foregoing preamble and resolution, to the senators and representatives of Massachusetts in the national congress, with a request to them to use all honorable means to secure the legislation therein recommended. [*Approved by the Governor, April 8, 1856.*]

Chap. 23.

RESOLVE in addition to the Resolve relating to the Massachusetts Convention of 1788.

Reprint of documents, &c., of 1788.

Resolved, That in the reprint of the report of the proceedings of the Massachusetts Convention, of one thousand seven hundred and eighty-eight, there shall be included the official journal of the convention, now in the archives of the State; and such other documents relating to the subject, as, in the opinion of the committee on the library, may be necessary. [*Approved by the Governor, April 8, 1856.*]

Chap. 24.

RESOLVE in favor of the Town of Belchertown.

\$128.92 as proportion of school fund.

Resolved, That there be allowed and paid, out of the school fund of this Commonwealth, to the treasurer of the town of Belchertown, the sum of one hundred and twenty-eight dollars and ninety-two cents, being the amount due said town, as their proportion of the school fund for the year

eighteen hundred and fifty-five; and that a warrant be drawn therefor accordingly. [*Approved by the Governor, April 8, 1856.*]

RESOLVE on the Petition of Charles Scudder.

Chap. 25.

Resolved, For reasons set forth in said petition, that the Commonwealth hereby releases to Charles Scudder, of Boston; Charles A. Cate, and Jane E. A. Cate, of Castine, in the State of Maine; Mary Ann Walker, wife of James B. R. Walker, of Holyoke, and Lucy M. Perkins, wife of Charles E. Perkins, of Hartford, in the State of Connecticut, all its right, title and interest acquired by escheat or otherwise, in estate numbered sixty-seven, on Bedford Street, in the city of Boston, as described in the deed of Drury M. Marshall and Francis A. Sawyer, to Thomas Adams, recorded with Suffolk deeds, book four hundred and thirty-four, page forty-six. [*Approved by the Governor, April 8, 1856.*]

Release of title, &c., in certain estate in Boston.

RESOLVE in favor of the State Reform School for Girls.

Chap. 26.

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to the commissioners under the resolves of April twelfth, eighteen hundred and fifty-four, the sum of five thousand dollars, for the purpose of procuring necessary furniture for the buildings provided for said school, at Lancaster, and preparing the same for the reception of girls; and that the governor be authorized to draw his warrant therefor accordingly. [*Approved by the Governor, April 14, 1856.*]

\$5,000 for furniture, &c.

RESOLVE in relation to the State Library.

Chap. 27.

Resolved, That the new library-room in the State House be furnished and fitted for use, under the direction of the trustees of the State library, at an expense not exceeding three thousand dollars; which sum shall be allowed and paid out of the treasury, to be expended under the direction of the said trustees, who are hereby authorized to apply to the purchase of books for the library, any balance which may remain after furnishing the room; and his excellency the governor is authorized to draw his warrant accordingly. [*Approved by the Governor, April 15, 1856.*]

\$3,000 to trustees of State library.

RESOLVE on the Petition of the Guardian of the Chappequiddic Indians and others.

Chap. 28.

Resolved, That for reasons set forth in said petition, there be allowed and paid, out of the school fund of this Commonwealth, to the guardian of the Chappequiddic and Christian-

\$104 annually, for five years, for support of schools.

town Indians, the sum of one hundred and four dollars annually, for the term of five successive years, to aid in the support of the schools among the said Indians, and that warrants be drawn therefor, from time to time, accordingly. [Approved by the Governor, April 15, 1856.]

Chap. 29.

RESOLVE on the Petition of Edward Blake to sell Real Estate.

Trustee authorized to sell certain real estate

Resolved. For the reasons set forth in the petition of Edward Blake, trustee, that he be, and he is, hereby authorized and empowered to convey to John Wiley Edmands, of Newton, in the county of Middlesex, Esquire, his heirs and assigns, all that piece or parcel of land, with the buildings thereon, situated in Chardon Street, in Boston, in the county of Suffolk, particularly described in said petition, or to such other person or persons as may be entitled to a conveyance thereof, pursuant to the provisions of the lease of the premises set forth in said petition: *provided*, that payment therefor shall be made according to the provisions of said lease; and that in case neither said Edmands, nor any one claiming under said lease, shall elect to purchase said premises, that said Blake be authorized to sell the same at public or private sale for cash or on credit; and that said Blake be authorized to convey said premises in fee simple, discharged from all trusts and liability for the application of the purchase money; and further, that said Blake be, and he is hereby, authorized to sell the land and the dwelling-houses thereon, situated in Seabury Place, in said Boston, particularly described in said petition, at public auction, for cash or on credit, and that said Blake be authorized to convey said premises in fee simple, discharged from all trusts and liability for the application of the purchase money: *provided, however*, that said Blake shall first give such bond with sureties to the judge of probate for the time being, of the county of Suffolk, as the said judge shall approve, with condition faithfully to pay and divide the net proceeds of the sale of said land in Chardon Street to and among the several persons entitled to the same under the trust indenture named in said petition; and that the net proceeds of the sale of the said land and the dwelling-houses, situated in said Seabury Place, be kept on interest, and applied to the payment of the annuities under said indenture; and that at the death of the annuitants, the fund shall be distributed among the several persons who may be entitled to the same under said indenture. [Approved by the Governor, April 17, 1856.]

Proviso

Further sale.

Proviso.

RESOLVE on the Petition of Samuel Jennison, Jr., Guardian.

Chap. 30.

Resolved, For reasons set forth in the said petition, that the power and authority conferred upon said guardian by virtue of the resolves of the legislature of said Commonwealth, passed on the seventh day of May, in the year one thousand eight hundred and fifty-one, and on the twelfth day of April, in the year one thousand eight hundred and fifty-three, be so extended, that the said Jennison be, and he is hereby, authorized and empowered to sell and convey the right, title, interest and estate of John and Frank T. Richardson, named in said resolves, or of either of them, in and to any part of the lands in said resolves described, in as full and ample a manner as the said guardian has been heretofore authorized thereby: *provided, however*, that said guardian shall first give bond to the judge of probate for the county of Middlesex, with good and sufficient surety or sureties, to be approved by the said judge, with condition that the said guardian shall faithfully execute the power herein granted, and shall render to the said court an account, on oath, of the proceeds of all sales under this resolve, within one year from the times of such sales respectively, and at such other times as said judge of probate may direct, and shall apply and invest such proceeds, and account for and pay over the same when required, and according to law, and discharge his trust in relation to the premises faithfully, for the best interest of his said wards; and *provided, further*, that when the principal sums derived from such sales of the interest and estate of the said John Richardson, shall amount (exclusive of interest accruing thereon) to the sum of five thousand dollars, over and above the sum limited by said previous resolves, then this power and authority, so far as relates to said estate of said John Richardson, shall terminate; and *provided*, that when the principal sums derived from such sales of the interest and estate of said Frank T. Richardson, shall amount (exclusive of interest accruing thereon) to the sum of ten thousand dollars, over and above the sum limited by said previous resolves, then this power and authority, so far as relates to the estate of said Frank T. Richardson, shall terminate. [*Approved by the Governor, April 19, 1856.*]

Guardian authorized to sell right, title, &c., of John and Frank T. Richardson.

Bond to judge of probate.

When to terminate with John Richardson.

When to terminate with Frank T. Richardson.

RESOLVE upon the Petition of William Sohier, Cyrus, and Hannah P. Mason. Chap. 31.

Resolved, For the reasons set forth in said petition, that the power and authority given in chapter fourteenth of the resolves passed in the year eighteen hundred and fifty-five, to William Sohier, of Boston, as trustee under the will of

Authorized to mortgage certain lots of land

the late Edward Tuckerman, of Boston, to mortgage certain lands therein described, for the purposes therein mentioned, be, and the same is hereby, extended so as to authorize and empower the said Solier, as such trustee, and his successors and successor in office for the aforesaid purposes, to mortgage the said estate or estates, or either of them, for any sum not exceeding twenty-five thousand dollars in the whole, by a mortgage or mortgages, payable at any time or times that may be agreed on with any mortgagee or mortgagees, and to cancel, modify and renew the mortgage or mortgages whenever he may think it expedient so to do; but to reserve out of the income of said estates, over and above the interest of said mortgage and mortgages, two thousand dollars per annum, instead of one thousand dollars, as required in the aforesaid resolve, toward the payment of the principal sum. [*Approved by the Governor, April 19, 1856.*]

Chap. 32.

RESOLVE relative to Repairs and Furniture for the State House.

\$17,172.80 for repairs and furniture of State House.

Resolved, That his excellency the governor, with the advice and consent of the council, be authorized to draw his warrants upon the treasury, to an amount not exceeding the sum of seventeen thousand one hundred and seventy-two dollars and eighty cents, for the payment of such bills as have been incurred and are now outstanding, for repairs and furniture for the State House, under a joint order of both branches of the legislature, of the fourteenth day of February, in the year one thousand eight hundred and fifty-five, and chapters eighty-one and eighty-seven of the resolves of the year one thousand eight hundred and fifty-five, after the same shall have been audited by the auditor of the Commonwealth. [*Approved by the Governor, April 25, 1856.*]

Chap. 33.

RESOLVES concerning the Annual Report of the Secretary of the Board of Agriculture.

10,000 copies annual report to be printed.

Resolved, That the clerk of the senate, for the time being, be authorized and directed to cause to be printed, annually, before the meeting of the legislature, or as soon thereafter as may be, ten thousand copies of the Annual Report of the Secretary of the Board of Agriculture, and that he cause the same to be numbered four of the senate documents.

2,000 copies for legislature, &c.

Resolved, That two thousand copies of said report be reserved for the use of the legislature, and that the residue be placed at the disposal of the secretary of the board of agriculture. [*Approved by the Governor, April 30, 1856.*]

RESOLVE in favor of the Indians of Gay Head.

Chap. 34.

Resolved, That there be allowed and paid, out of the school fund of this Commonwealth, to Leavitt Thaxter, Esq., of Edgartown, the sum of sixty dollars annually, for the term of five years, to be applied to the support of schools among the Indians of Gay Head: and the governor is authorized to draw his warrant therefor, from time to time, accordingly. [Approved by the Governor, April 30, 1856.]

\$60 annually, for five years, for support of schools

RESOLVE on the Petition of Charles Brigham.

Chap. 35.

Resolved, That, for the reasons set forth in said petition, there be allowed and paid, out of the treasury of the Commonwealth, to Charles Brigham, the sum of fifty-six dollars and twenty-nine cents, and that the governor be authorized to draw his warrant accordingly. [Approved by the Governor, April 30, 1856.]

\$56.29 allowed.

RESOLVE on the Petition of Lewis Aiken.

Chap. 36.

Resolved, That, for the reasons set forth in said petition, there be allowed and paid out of the treasury of the Commonwealth, to Lewis Aiken, the sum of six hundred dollars; and that the governor be authorized to draw his warrant accordingly. [Approved by the Governor, May 1, 1856.]

\$600 allowed.

RESOLVE granting Taxes for the several Counties.

Chap. 37.

Resolved, That the sums placed against the names of the several counties in the following schedule be, and hereby are, granted as a tax for each county, respectively; to be assessed, paid, collected and applied, according to law, namely:—

Sums assessed.

Essex—Ninety-eight thousand four hundred dollars.

Middlesex—Eighty-three thousand two hundred sixty-four dollars.

Norfolk—Fifty-five thousand dollars.

Bristol—Fifty thousand dollars.

Plymouth—Twenty thousand dollars.

Worcester—Seventy-five thousand dollars.

Hampden—Thirty thousand five hundred dollars.

Hampshire—Twenty thousand dollars.

Berkshire—Twenty-two thousand dollars.

Barnstable—Eight thousand five hundred and fifty dollars.

Franklin—Eighteen thousand dollars.

Dukes—Three thousand five hundred dollars. [Approved by the Governor, May 1, 1856.]

Chap. 38.

RESOLVE in favor of the Town of Southbridge.

\$136.18 as proportion of school fund.

Resolved, That there be allowed and paid, out of the school fund of this Commonwealth, to the treasurer of the town of Southbridge, the sum of one hundred and thirty-six dollars and eighteen cents, being the amount due said town, as its proportion of the school fund for the year eighteen hundred and fifty-five, and that a warrant be drawn therefor accordingly. [*Approved by the Governor, May 1, 1856.*]

Chap. 39.

RESOLVES concerning a Breakwater at Cape May.

Senators and representatives to urge appropriation.

Resolved, by the Senate and House of Representatives of the Commonwealth of Massachusetts, That our senators and representatives in congress be requested to use their utmost exertions to obtain, during the present or the next session of congress, an appropriation for the commencement of a breakwater harbor on Crow Shoal, in the Delaware Bay, near Cape May.

Secretary to forward copies.

Resolved, That the secretary of the Commonwealth be directed to forward to each of our senators and representatives in congress, a copy of these resolves.

Governor to communicate action, &c.

Resolved, That the governor of this State be requested to communicate the action of this legislature to the governor of New Jersey. [*Approved by the Governor, May 1, 1856.*]

Chap. 40. RESOLVES concerning the Journals and Papers of the House of Representatives.

Clerk to complete index and prepare catalogue, &c.

Resolved, That the clerk of the house of representatives for the time being, cause to be completed, under his supervision, the general index of the journals of the house up to the close of the present session, and also prepare a catalogue of the papers on file in the house, and make an index of the same similar to the indexes and catalogues of the senate; the whole expense of the work hereby authorized to be done, not to exceed the sum of three thousand dollars; and the governor is hereby authorized to draw his warrant, for the payment of the expenses already incurred in the work aforesaid, under the resolve relating thereto, approved April fifth, eighteen hundred and fifty-six. And the governor is further authorized, as said work progresses, to draw his warrant for paying the expenses of the same in monthly payments.

Repeal.

Resolved, That the resolve concerning the journals and papers of the house of representatives, approved April fifth, eighteen hundred and fifty-six, be, and hereby is, repealed. [*Approved by the Governor, May 3, 1856.*]

RESOLVE in relation to the Estate of Nahum Capen.

Chap. 41.

Whereas, By deed of mortgage, dated the tenth day of February, eighteen hundred and forty-six, and recorded in the registry of deeds for the county of Norfolk, lib. one hundred and sixty-two, fol. sixty-nine, one Nahum Capen conveyed to Joseph Barrett, the then treasurer and receiver-general of this Commonwealth, a certain tract and parcel of land situate in Dorchester, in said county of Norfolk, as by reference to said deed of mortgage will fully appear; said deed of mortgage having been given to secure the payment of the principal and interest of the two promissory notes and debt therein described; and *whereas*, the consideration mentioned in said deed is described as having been paid by said Barrett, "acting on behalf of the Western Railroad Loan Sinking Fund," while he, said Barrett, was, in point of fact, as it is believed, acting, in taking said mortgage, on behalf of the Western Railroad *Stock* Sinking Fund; and *whereas*, subsequently to the time of taking said mortgage, an open and peaceable entry into and upon the premises described in said deed of mortgage, was made by Jacob H. Loud, treasurer and receiver-general of said Commonwealth, for breach of the condition of said mortgage, and for the purpose of foreclosing the right of redemption; and *whereas*, doubts have arisen as to the proper and effectual method of assigning the real estate and premises conveyed by said deed of mortgage, said deed of mortgage itself, and the notes and debt thereby secured, together with the benefit and advantage of said entry for breach of condition; therefore,

Relating to foreclosure of certain mortgaged estate.

Resolved, If approved by the governor and council, that on the receipt of the sum of money which shall be found to be legally due on the notes secured by said deed of mortgage, Moses Tenney, Jr., the treasurer and receiver-general of this Commonwealth, or such other person as shall be the treasurer and receiver-general for the time being be, and he hereby is, fully authorized to assign, transfer and set over to any person or persons whomsoever, the real estate and premises conveyed by said deed of mortgage, said deed of mortgage itself, and the notes and debt thereby secured, together with the benefit and advantage of the said entry for breach of the condition of said mortgage, and for the purpose of foreclosing the right of redemption; said assignment to be made subject to the right of any person or persons (if any such right there be) to redeem said real estate; and said deed of assignment to be made and executed in the name of the Commonwealth, under its seal, and to be acknowl-

Treasurer authorized to execute deed of assignment, &c.

edged as its deed, by said treasurer and receiver-general; and said deed, when so executed and acknowledged, and when delivered, shall be amply sufficient to pass and convey every thing as aforesaid, intended to be assigned thereby. [Approved by the Governor, May 3, 1856.]

Chap. 42. RESOLVE concerning the pay of the Messengers and Pages of the two branches of the Legislature.

Messengers and Pages.

Resolved, That the sergeant-at-arms be authorized to appoint such persons as messengers and pages to the two branches of the legislature, during its sessions, as the presiding officers of the two houses shall, respectively, approve.

Compensation.

And the persons heretofore appointed to act as messengers and pages, during the present session, with the approval of said presiding officers, shall be paid in the same manner as the door-keepers are now paid under the existing laws. [Approved by the Governor, May 3, 1856.]

Chap. 43. RESOLVE on the Petition of Henry Dennis, of Rockport.

§34.47 allowed.

Resolved, That, for reasons set forth in the petition, there be allowed and paid, out of the treasury of the Commonwealth, to Henry Dennis, of Rockport, the sum of thirty-four dollars and forty-seven cents, and the governor is hereby authorized to draw his warrant accordingly. [Approved by the Governor, May 5, 1856.]

Chap. 44. RESOLVE on the Petition of Sherburn F. Morey.

§23.27 allowed.

Resolved, That, for reasons set forth in said petition, there be allowed and paid out of the treasury of the Commonwealth, to Sherburn F. Morey, of Gloucester, the sum of twenty-three dollars and twenty-seven cents, and the governor is hereby authorized to draw his warrant accordingly. [Approved by the Governor, May 5, 1856.]

Chap. 45. RESOLVE in favor of George Lane, a Constable of the Town of Gloucester.

§36 allowed.

Resolved, That, for reasons set forth in the petition of George Lane, a constable of the town of Gloucester, there be allowed and paid, out of the treasury of the Commonwealth, to the said Lane, the sum of thirty-six dollars; and that the governor be authorized to draw his warrant accordingly. [Approved by the Governor, May 5, 1856.]

RESOLVES further to postpone the operation of chapter fifty-three of Resolves *Chap. 46.*
of eighteen hundred and fifty-five.

Resolved, That the operation of the resolve of the general court, approved by the governor May fourth, eighteen hundred and fifty-five, entitled "Resolve declaring when certain lands in the State of Maine shall become forfeited to this Commonwealth," be further suspended upon the following conditions: On the payment of one-third of the principal and interest due, on the notes given for any tract of land, and advertised by the land agent, pursuant to the requirements of said resolve, to be made on or before the first day of January, in the year one thousand eight hundred and fifty-seven, the forfeiture of said land shall be postponed one year from the said first day of January; and on payment of one-half of the principal and interest remaining due on said notes, on or before the first day of January, in the year one thousand eight hundred and fifty-eight, the forfeiture of said land shall again be postponed for one year; and on payment of the balance of principal and interest remaining due on said notes, the other conditions of the deed having been performed, the title of the purchaser under the deed shall become absolute. If any such payments shall fail to be made, in manner and at the times aforesaid, the land shall be declared forfeited, in manner provided in said resolve: *provided,* that if any timber shall be cut from any township or tract of land, for which any of the afore described notes were given, the stumpage on the same shall be fully paid, and the amount endorsed on the notes given for the townships or tract from which it was so taken; and if the stumpage is not so paid, then the township or tract, from which said lumber was so cut, shall not be saved from forfeiture, but the same shall be forfeited in manner provided in said resolve. The time for the payment of stumpage shall be the first day of November in each year.

Operation of resolve of 1855 postponed

Proviso.

Resolved, That if any part owner of any tract of land, or any mortgagee thereof, fails to pay his proportion of the principal and interest, to be paid, as by the foregoing resolve provided, on the first day of January, in the year of our Lord one thousand eight hundred and fifty-seven, any other part owner, or mortgagee, who on that day pays his part of said principal and interest, may, on the second day of January, in the year one thousand eight hundred and fifty-seven, pay to the land agent the sum which was required to be paid on the first day of said January, by said delinquent part owner: and the part owner, so paying, shall be considered the purchaser of the interest in the land forfeited by such delinquent

Part owners, paying delinquencies, to be considered as purchasers. &c.

part owner, and shall have the right to complete the payments for the whole in the manner in the aforesaid resolve provided: and having so done, shall be entitled to a deed of the interest in the land forfeited by said delinquent part owner. No payment, made by any part owner, shall save from forfeiture any part of the lands, unless the same so left unpaid by the delinquent part owner, is paid, and the land purchased in the manner before provided. If there are two or more part owners, who desire to pay their own shares of such sums, and to unite in paying the shares of such delinquent part owner, they may do so, and shall be entitled each to his proportion of the forfeited interest of such delinquent part owner, in proportion to their several interests. [*Approved by the Governor, May 5, 1856.*]

Two or more part owners may unite. &c.

Chap. 47.

RESOLVES relating to Woodworth's Planing Machine.

Patent laws.

Whereas, We believe the true object of our patent laws to be, protection to the inventor, and not the establishment of a monopoly in the hands of speculators in patents, that may tax the industrial pursuits of the country, without rendering an equivalent: and *whereas*, we believe the renewal a second time of the patent on Woodworth's Planing Machine, would be a violation of the spirit and design of our patent laws, and fix an unjust and oppressive tax on the mechanical pursuits of the country; therefore,

Relative to Woodworth's patent.

Resolved, by the Senate and House of Representatives of the Commonwealth of Massachusetts, That our senators and representatives in congress be requested to use all honorable means in their power, to prevent the renewal of said patent, upon the application of William W. Woodworth, or any other person in his behalf.

Transmission of resolves

Resolved, That the governor of the Commonwealth be requested to forward copies of the foregoing preamble and resolution to our senators and representatives in congress. [*Approved by the Governor, May 8, 1856.*]

Chap. 48.

RESOLVE authorizing the Treasurer and Receiver-General to release and quitclaim to Enos Clark, Jr., certain Lands in Northampton.

Treasurer to quitclaim certain lands to Enos Clark, Jr.

Resolved, That for reasons set forth in the petition of Enos Clark, Jr., the treasurer and receiver-general is hereby authorized to release and quitclaim to said Clark, his heirs and assigns, that portion of the real estate, situated in Northampton, described in said petition, and which was erroneously embraced in the deed of said Clark to the commissioners acting in behalf of said Commonwealth, under the act passed May twenty-first, eighteen hundred and fifty-five, entitled

“An Act to establish a Hospital for Insane in Western Massachusetts,” which deed bears date the third day of September, eighteen hundred and fifty-five. [*Approved by the Governor, May 13, 1856.*]

RESOLVE in aid of the State Hospitals at Rainsford Island and Taunton. *Chap. 49.*

Resolved, That the sum of thirteen thousand dollars be, and the same is, hereby appropriated, to be applied by the inspectors of the State Hospitals at Rainsford Island and Taunton, in the following manner, to wit:—To the State Hospital at Rainsford Island, the sum of five thousand dollars, for the purposes of erecting an addition to the hospital for males, to build wood and coal sheds, for furniture and repairs, and for grading grounds around new hospital; to the State Lunatic Hospital at Taunton, the sum of eight thousand dollars, for the purposes of ventilating, heating and repairs, and that the governor draw his warrants accordingly. [*Approved by the Governor, May 13, 1856.*]

\$15,000 to State hospitals at Rainsford Island and Taunton.

RESOLVE on the Petition of William Greenleaf, to pay over certain Trust Funds. *Chap. 50.*

Resolved, For the reasons set forth in the petition of William Greenleaf, executor and trustee, that he is hereby authorized and empowered to pay to the children of Austin Harrington, late of the county of Worcester, deceased, to each child, his or her just proportion of any and all funds, which he, the said William Greenleaf, holds, either as executor or trustee of the estate of Lucretia Harrington, late of Worcester, deceased; and the receipt of said children, upon such payment, shall bar effectually, all claims of said children against the said William Greenleaf, arising, or growing out of any of the provisions in the last will of the said Lucretia Harrington. [*Approved by the Governor, May 13, 1856.*]

Executor authorized to pay funds. &c.

RESOLVE on the Petition of Alfred H. Porter. *Chap. 51.*

Resolved, For reasons set forth in the said petition, that there be allowed and paid, out of the treasury of the Commonwealth, to Alfred H. Porter, the sum of three hundred dollars, and that the governor be authorized to draw his warrant therefor accordingly. [*Approved by the Governor, May 13, 1856.*]

\$300 to Alfred H. Porter.

RESOLVE on the Petition of Patrick Boise, to sell Real Estate. *Chap. 52.*

Resolved, For the reasons set forth in the petition of Patrick Boise, administrator, that he be, and he is, hereby authorized and empowered, to convey, in fee simple, either

Administrator authorized to convey real estate.

Proviso. by contract or at public auction, the real estate of which Jerusha Phelps, late of Westfield, in the county of Hampden, deceased, died seized and possessed of: *provided, however,* that said Boise shall first give such bond, with sureties, to the judge of probate of the county of Hampden, as the said judge shall approve, with condition to pay over the proceeds of said sale to the legal heirs of the said Jerusha Phelps. [*Approved by the Governor, May 13, 1856.*]

Chap. 53. RESOLVE on the Petition of Nathaniel Appleton and others, relative to the Salem Charitable Marine Society.

Notice of meeting.

Transfer of property.

Resolved, For reasons set forth in said petition, that said Nathaniel Appleton be, and he is hereby, authorized to call a meeting of the Salem Charitable Marine Society, by causing a notice of the time, and place, and object of such meeting, to be published three weeks successively, in the Salem Gazette, a newspaper printed in the city of Salem, the last publication to be inserted one week at least, before the time of such meeting. Said society is hereby authorized to elect a receiver, and to empower him to withdraw all moneys standing to the credit of said society, in any bank, and to pay over the same to the Seamen's Widow and Orphan Association, and also to transfer to said Seamen's Widow and Orphan Association, all stocks standing in the name of the first named society, which property so paid over and transferred, shall be held by the last named association, upon the trusts contemplated in its act of incorporation. [*Approved by the Governor, May 13, 1856.*]

Chap. 54.

§392 allowed.

RESOLVE on the Petition of Tewksbury and Caldwell.

Resolved, For reasons set forth in said petition, that there be allowed and paid, out of the treasury of the Commonwealth, to Tewksbury and Caldwell, the sum of three hundred and ninety-two dollars, and that the governor be authorized to draw his warrant therefor accordingly. [*Approved by the Governor, May 13, 1856.*]

Chap. 55.

§43.37 as proportion of school fund.

RESOLVE in favor of the Town of Boxford.

Resolved, That there be allowed and paid, out of the school fund of this Commonwealth, to the treasurer of the town of Boxford, the sum of forty-three dollars and thirty-seven cents, being the amount due said town, as its proportion of the school fund for the year eighteen hundred and fifty-five, less ten per cent., and that the governor be authorized to draw his warrant therefor accordingly. [*Approved by the Governor, May 13, 1856.*]

RESOLVE in favor of the State Industrial School for Girls.

Chap. 56.

Resolved, That the sum of eight thousand dollars be, and the same is hereby, appropriated, to be applied by the trustees of the State Industrial School for Girls, for the purpose of furnishing supplies for the support of the inmates of said institution, and that the governor draw his warrants accordingly. [Approved by the Governor, May 16, 1856.]

\$8,000 for supplies.

RESOLVE in favor of the State Almshouses.

Chap. 57.

Resolved, That the sum of fifteen thousand and two hundred dollars be, and the same is hereby, appropriated to be applied by the inspectors of the several State Almshouses, in the following manner, to wit: to the State Almshouse at Tewksbury, the sum of five thousand dollars, for the purposes of purchasing and erecting an engine and boiler, and for alterations and repairs of buildings; to the State Almshouse at Bridgewater, the sum of three thousand seven hundred dollars, for the erection of barn, sheds, fencing, and painting buildings; to the State Almshouse at Monson, the sum of six thousand five hundred dollars, to pay debts contracted the past year, finish the third story of the building, and for repairs; and that the governor draw his warrants accordingly. [Approved by the Governor, May 16, 1856.]

\$15,200 to State almshouses at Tewksbury and Bridgewater.

RESOLVE concerning the Artificial Propagation of Fish.

Chap. 58.

Resolved, That his excellency the governor, with the advice of the council, be authorized to appoint three commissioners, whose duty it shall be to ascertain and report, to the next general court, such facts respecting the artificial propagation of fish, as may tend to show the practicability and expediency of introducing the same into this Commonwealth, under the protection of law; and said commissioners shall keep an account of their actual expenses in executing this commission, to be duly audited and allowed by the governor and council, and paid by warrant upon the treasury, duly drawn for that purpose by the governor: *provided, however*, that the amount does not exceed one thousand dollars. [Approved by the Governor, May 16, 1856.]

Propagation of fish.

RESOLVE on the Petition of Clem Jenkins, for leave to inherit certain Real Estate.

Chap. 59.

Resolved, For reasons set forth in said petition, that said Clem Jenkins be, and he is hereby, authorized to take, hold and dispose of the real estate mentioned and described in said petition, free and clear of any and all claim which this Commonwealth may have thereto, by reason of the death of James N. Johnson, without legal heirs. [Approved by the Governor, May 19, 1856.]

Title established.

Chap. 60.

RESOLVES CONCERNING the Attorney-General's Office

\$1,000 annually,
for clerical assist-
ance.

Resolved, That there be allowed and paid to the attorney-general of the Commonwealth, a sum not exceeding one thousand dollars annually, for such clerical assistance as the business of his office may require.

Repeal

Resolved, That the twenty-fifth chapter of the resolves of the year one thousand eight hundred and fifty-five be, and hereby is, repealed. [*Approved by the Governor, May 21, 1856.*]

Chap. 61.

RESOLVE on the Petition of James H. Patillo and others.

\$35.10 for witness
fees.

Resolved, That, for reasons set forth in said petition, there be allowed and paid, out of the treasury of the Commonwealth, to George Lane, of Gloucester, the sum of thirty-five dollars and ten cents, as an allowance to the petitioners for witness fees and mileage, to wit: for George Lane, four dollars and twenty-eight cents; for James H. Patillo, three dollars and seventy-eight cents; for J. D. Allen, four dollars and twenty-eight cents; for S. F. Morey, five dollars and ninety cents; for E. G. Friend, one dollar and fifty-eight cents; for David Allen, three dollars and twenty-four cents; for James Roberts, two dollars and sixteen cents; for Chester Mars, one dollar and eight cents; for George Clarke, three dollars and twenty-four cents; for Robert Rowe, three dollars and seventy-eight cents; and for Henry Dennis, one dollar and seventy-eight cents; and the governor is hereby authorized to draw his warrant accordingly. [*Approved by the Governor, May 21, 1856.*]

Chap. 62.

RESOLVE on the Petition of Jonathan W. Freeland, to sell Real Estate.

Trustee author-
ized to convey
real estate.

Resolved, For the reasons set forth in the petition of Jonathan W. Freeland, trustee, that he be, and he is hereby, authorized and empowered to convey, either at private sale, or at public auction, the real estate described in his said petition; and that the said Freeland be empowered to convey said premises, in fee simple, discharged from all trusts and liability for the purchase money: *provided, however*, that said Freeland shall first give such bond, with sureties, to the judge of probate of the county of Hampden, as the said judge shall approve, with condition to make such disposition of the proceeds of said sale as is contemplated and set forth in the last will and testament of William Freeland, late of West Springfield, in the county of Hampden, deceased. [*Approved by the Governor, May 21, 1856.*]

Provide.

RESOLVE on the Petition of Edward J. Cushing.

Chap. 63.

Resolved, For the reasons set forth in said petition, that the Commonwealth hereby release to the parties in interest, all right, title and claim acquired by escheat or otherwise, in or to Bedford Court, in the city of Boston, or to the premises abutting thereon, in said petition described; so that Edward J. Cushing may hold the westerly estate, and the legal representatives of Samuel Sanford may hold the easterly estate, on said court, in rear of land formerly of Thomas Adams, on Bedford Street, henceforth free and discharged therefrom. [*Approved by the Governor, May 24, 1856.*]

Release of title to certain estate in Boston

RESOLVE authorizing the Treasurer to borrow Money in anticipation of the State Tax.

Chap. 64.

Resolved, That the treasurer be authorized to borrow, in anticipation of the State tax, such sums of money as may be necessary, from time to time, for the payment of any public debt which may fall due in the present year, and that he repay any sum he may borrow, as soon as money sufficient for the purpose, and not otherwise appropriated, shall be received into the treasury: *provided*, that the whole amount borrowed by virtue of this resolve and remaining unpaid, shall not at any time exceed the sum of six hundred thousand dollars. [*Approved by the Governor, May 28, 1856.*]

Treasurer may borrow the sum of \$600,000.

RESOLVES in favor of the State Farm at Westborough.

Chap. 65.

Resolved, That the sum of three thousand dollars be, and the same is hereby, appropriated for permanent improvements, including those already begun, for testing the true value of fertilizers and the comparative profits of different animals; for meeting the current expenses of the State farm at Westborough, and to enable the Board of Agriculture to execute properly the contract with the trustees of the State Reform School. But no part of said sum shall be expended in improvements which will require further appropriations for their completion.

\$3,000 appropriated for improvements.

Resolved, That the governor be, and he is hereby, authorized to draw his warrant for the above sum, to remain in the treasury, subject to the drafts of the treasurer of the Board of Agriculture, as the exigencies of the farm may require. [*Approved by the Governor, May 28, 1856.*]

RESOLVE on the Petition of Abner F. Hopkins.

Chap. 66.

Resolved, For reasons set forth in the said petition, that there be allowed and paid, out of the treasury of the Commonwealth, to Abner F. Hopkins, the sum of two hundred

200 allowed.

dollars, as a remuneration in full for damages received, as set forth in his petition; and the acceptance of this sum by the petitioner, shall be considered as his agreement to the provisions of this resolve; and the governor is requested to draw his warrant accordingly. [*Approved by the Governor, May 28, 1856.*]

Chap. 67. RESOLVES concerning the State Normal School-houses at Bridgewater, Westfield, Framingham and Salem.

Appropriations for improvements at State normal school-houses.

Resolved, That the sum of one hundred dollars be appropriated to defray the expense of making repairs on the State normal school-house at Bridgewater.

Resolved, That the sum of two thousand five hundred dollars be appropriated for repairs and improvements necessary to be made upon the State normal school-house at Westfield.

Resolved, That the sum of two hundred and fifty dollars be appropriated to defray the expense of grading and ornamenting the grounds connected with, and putting blinds upon, the State normal school-house at Framingham.

Resolved, That the sum of two thousand five hundred dollars be appropriated for grading and fencing the grounds connected with the State normal school-house at Salem, and furnishing apparatus and furniture for the same; and that the several sums aforesaid be disbursed under the direction of the Board of Education. [*Approved by the Governor, May 28, 1856.*]

Chap. 68.

RESOLVE in favor of the Boston Board of Trade.

Documents to Boston Board of Trade.

Resolved, That the secretary of the Commonwealth, the clerk of the senate and the clerk of the house of representatives, be authorized to furnish to the Boston Board of Trade, full sets of all printed documents which have been published by the order of the different departments of the State government, so far as they may be able to do so from the documents now in their possession, and to furnish them complete sets of all public documents, year by year, in future, upon application of said board of trade. [*Approved by the Governor, May 28, 1856.*]

Chap. 69. RESOLVE in favor of the Widow and Child of Nicholas Tillinghast, late Principal of the Normal School at Bridgewater.

\$1,810.82 allowed.

Resolved, That there be allowed and paid, out of the treasury of this Commonwealth, to Mrs. Ruby H. Tillinghast and William H. Tillinghast, the widow and child of Nicholas Tillinghast, late principal of the normal school at Bridge-

water, the sum of eighteen hundred and ten dollars and eighty-two cents; and the governor is hereby authorized to draw his warrant therefor accordingly. [*Approved by the Governor, May 28, 1856.*]

RESOLVE in favor of William Goday.

Chap. 70.

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to William Goday, of Rockport, in the county of Essex, the sum of forty dollars a year during the remainder of his life, for injuries sustained by him while in the performance of military duty in the war of eighteen hundred and twelve; the same to be paid in semi-annual instalments of twenty dollars each, the first of which to be allowed and paid on the passage of this resolve; and warrants may be drawn accordingly. [*Approved by the Governor, May 28, 1856.*]

\$40 annually, to William Goday.

RESOLVE in favor of the Gay Head Indians.

Chap. 71.

Resolved, That a sum not exceeding two hundred and fifty dollars be, and hereby is, appropriated for the purpose of building that part of the boundary line fence between the town of Chilmark and the Indians of Gay Head, which said Indians are required to make; and also, a further sum, not exceeding one hundred and fifty dollars, for the purpose of planting beach grass upon the South Beach, in the territory of said Indians. The said sums to be expended under the direction and supervision of Abraham Rodman, or such other suitable person as his excellency the governor, by and with the consent of the council, may appoint for that purpose. And the governor is hereby authorized to draw his warrants upon the treasury in favor of the agent or superintendent, so appointed, accordingly. [*Approved by the Governor, May 28, 1856.*]

\$400 appropriated for certain purposes.

RESOLVE in favor of the Department of the Secretary of the Commonwealth.

Chap. 72.

Resolved, That the lower west basement room in the new department of the State House, heretofore occupied by the board of agriculture, and committees of the legislature upon that subject, be, and it is hereby, appropriated for the use of the department of the secretary of the Commonwealth, and that the same be fitted for his use, by the committee on public buildings, at an expense not to exceed the sum of four hundred dollars. [*Approved by the Governor, May 30, 1856.*]

Room for secretary's department.

Chap. 73. RESOLVE on Petition of Charlotte A. Woods, of Lancaster, in the County of Worcester, Guardian.

Guardian's sale
of certain real es-
tate confirmed.

Resolved, For reasons set forth in said petition, that the several deeds therein mentioned, bearing date the eighteenth day of May, in the year eighteen hundred and fifty-four, made and executed by said Charlotte A. Woods, as guardian of Anna L. Woods, Harriet E. Woods, Charlotte A. Woods, Mary S. Woods, Ellen Woods, and Alice P. Woods, minors, children of Matthew F. Woods, late of Lancaster, in the county of Worcester, deceased, for the conveyance to the several grantees in said deeds named, under license from the court of probate for said county of Worcester, granted April fourth, in the year eighteen hundred and fifty-four, of the interest of said minors in and unto certain real estate in said deeds mentioned and described, situate in said Lancaster, which deeds are as follows, to wit: Deed to Jonathan Forbush, recorded in Worcester County registry of deeds, book 530, page 118; deed to George Dodge, and Artemas Hawes, recorded in said registry, book 530, page 353; deed to Samuel Chickering, recorded in said registry, book 534, page 147; deed to Artemas Hawes, recorded in said registry, book 530, page 355; and deed to John G. Thurston, entered for record in said registry, April eleventh, in the year eighteen hundred and fifty-six, at 7 h. 40 m. A. M., be held good and sufficient in law for the conveyance to the said several grantees, of all the right, title, interest and estate of the said Anna L. Woods, Harriet E. Woods, Charlotte A. Woods, Mary S. Woods, Ellen Woods, and Alice P. Woods, minors, in and unto the several tracts of land and real estate mentioned or described in said several deeds, and intended thereby to be conveyed, and that the sales mentioned in said petition and the titles of said several grantees under the same, be, and the same are hereby confirmed. [*Approved by the Governor, May 30, 1856.*]

Chap. 74.

RESOLVES in relation to Accounts against the Commonwealth.

Accounts to be
certified.

Resolved, That all accounts against this Commonwealth shall be approved by the person or persons under whose direction the charge was incurred, and be certified by the auditor; and no account shall be allowed for any matter or thing, for the doing or procuring of which authority shall not have been given by one or both branches of the legislature.

Resolved, That the printing, binding and procuring of stationery for the use of the executive council and the several offices in the government of this Commonwealth, shall

be under the direction of the respective heads of said departments; and for the use of the senate and house of representatives, under the direction of the respective clerks thereof: and the amounts therefor shall be certified accordingly.

Resolved, That all expenditures by the heads of departments, boards of commissioners, and all other persons acting under the authority of the Commonwealth, shall be embraced in the annual estimates of the auditor, and be provided for by annual appropriations.

Resolved, That no alteration shall be hereafter made in any of the apartments of the State House, or any fixtures be placed therein, or any furniture procured therefor, except by the sergeant-at-arms, with the approbation of the committee on public buildings.

Resolved, That the resolve passed on the eleventh day of June, in the year one thousand eight hundred and twenty-nine, and the resolves passed on the third day of April, in the year one thousand eight hundred and forty-six, relating to the auditing and examination of accounts against the Commonwealth, are hereby repealed. [*Approved by the Governor, May 30, 1856.*]

RESOLVE on the Petition of Augustus Wheeler and Lucy Wheeler, his wife. *Chap. 75.*

Resolved, For the reasons set forth in said petition, that Harriet H. Kendall, administratrix of the estate of George Kendall, late of Westminster, in the county of Worcester, deceased, be, and she hereby is, authorized and empowered to make, execute and deliver to the several purchasers in said petition named, suitable deeds for the conveyance to them, in accordance with the terms of their respective purchases under a sale made by said George Kendall, by virtue of the authority to him granted by the order and decree of the supreme judicial court in said petition referred to, of all the right, title and interest of said Lucy Wheeler in and unto the whole of the real estate in said petition mentioned, whereof Benjamin A. Gates, late of Gardner, in said county, deceased, died seized; and the titles of said purchases under such conveyances duly made by the said Harriet H. Kendall, administratrix under this resolve, shall be held to be as good and valid in law as if the estates so purchased by them as aforesaid, had been duly conveyed to them by the said George Kendall pursuant to said order and decree of court. [*Approved by the Governor, May 30, 1856.*]

Harriet H. Kendall, administratrix, authorized to execute deeds. &c.

Chap. 76.

RESOLVES in relation to Lands in the Back Bay.

Release of title to
Back Bay lands.

Resolved, That a joint committee, consisting of three members on the part of the senate, with five members of the house of representatives, be appointed, with full authority, subject to the approbation of the governor and council, to release, upon such terms and conditions as they shall think fit, the right, title and interest of the Commonwealth in and to any or all of the lands and flats in the Back Bay, for money, or such valuable consideration as they shall deem proper; and they shall deposit any money, or other securities received therefor, with the treasurer of the Commonwealth.

Proceedings in
case release
not deemed ad-
visable.

Resolved, That in case the said committee and the governor and council shall not deem it best to release the interest of the Commonwealth in said lands or flats, as provided in the preceding resolve, they shall investigate the right, title and interest of the Commonwealth in said lands or flats; they shall have authority to devise plans for the improvement of said territory, or any part thereof, and for the flow of the tide into and out of the full basin, for the benefit of Boston Harbor, and to settle, arrange, adjust and compromise all differences, disputes and claims, with any parties interested, or claiming any right, title or interest in any lands in the Back Bay; and they may alter, reform or amend all contracts, whether by deed or otherwise, heretofore made by the commissioners on the Back Bay, subject to the approval of the governor and council, all parties to the same agreeing thereto; but they shall make no expenditures whatever, nor incur any liabilities for the improvement of said territory, until authorized so to do by the legislature; and said committee may sit in the recess of the legislature, if it shall be found necessary so to do, and the commissioners on the Back Bay shall be, *ex officio*, members of the said committee.

Capital of Boston
Water-Power Co.
increased \$275,-
000.

Resolved, That to enable the Boston Water-Power Company to fill up and make the avenues and other improvements, which they have contracted with the Commonwealth to make, by their indenture, dated June ninth, eighteen hundred and fifty-four, they may increase their capital stock by the sum of two hundred and seventy-five thousand dollars: *provided, however*, that the said company, by an acceptance of this resolve, shall be held to relinquish to any person or corporation who may become parties to the said indenture, or to any modification thereof, made by virtue of the preceding resolve, the right of flowage of said company in either basin of said Back Bay, so far as to allow every

Proviso.

one of said persons or corporations to fill up their lands or flats, in conformity with such plan as the committee before mentioned may devise, subject to the approval of the governor and council; and *provided, further*, that nothing herein mentioned shall authorize said company to create any nuisance on their said lands, and that said company shall be subject, as now, to the control of the board of health of the city of Boston, and also of the city of Roxbury, within their respective jurisdictions, according to the laws of the Commonwealth respecting nuisances.

Resolved, That the foregoing resolves shall not affect the legal rights of the city of Boston, the city of Roxbury, the town of Brookline, or of any other corporation or person, and they shall take effect from and after their passage. [*Approved by the Governor, May 30, 1856.*]

RESOLVES concerning the recent Assault upon the Honorable Charles Sumner, *Chap. 77.*
at Washington.

Resolved, By the senate and house of representatives of the Commonwealth of Massachusetts, that we have received with deep concern, information of the recent violent assault committed in the senate chamber at Washington, upon the person of the Honorable Charles Sumner, one of our senators in congress, by Preston S. Brooks, a member of the house of representatives from South Carolina; an assault which no provocation could justify—brutal and cowardly in itself—a gross breach of parliamentary privilege—a ruthless attack upon the liberty of speech—an outrage of the decencies of civilized life, and an indignity to the Commonwealth of Massachusetts.

Resolved, That the legislature of Massachusetts, in the name of her free and enlightened people, demands for her representatives in the national legislature, entire freedom of speech, and will uphold them in the proper exercise of that essential right of American citizens.

Resolved, That we approve of Mr. Sumner's manliness and courage in his earnest and fearless declaration of free principles, and his defence of human rights and free territory.

Resolved, That the legislature of Massachusetts is imperatively called upon, by the plainest dictates of duty, from a decent regard to the rights of her citizens and respect for her character as a sovereign State, to demand, and the legislature of Massachusetts hereby does demand, of the national congress, a prompt and strict investigation into the recent assault upon Senator Sumner, and the expulsion, by the

house of representatives, of Mr. Brooks, of South Carolina, and any other member concerned with him in said assault.

Transmission of
resolves.

Resolved, That his excellency the governor be requested to transmit a copy of the foregoing resolves to the president of the senate and speaker of the house of representatives, and to each of the senators and members of the house of representatives from this Commonwealth, in the congress of the United States. [*Approved by the Governor, May 31, 1856.*]

Chap. 78. RESOLVE to authorize the Secretary of the Commonwealth to furnish certain Documents.

Documents to
Kansas.

Resolved, That the secretary of the Commonwealth be authorized to furnish to Robert Klotz, for the commissioners engaged in codifying the laws in Kansas, the Revised Statutes and Supplements thereto, and such other documents as in his opinion may be useful for the aforesaid purpose. [*Approved by the Governor, May 31, 1856.*]

Chap. 79. RESOLVES in relation to Town Lines between the Towns of South Scituate and Hanover.

Commissioners to
establish bounda-
ry line.

Resolved, That two commissioners be appointed by his excellency the governor, by and with the advice and consent of the council, whose duty it shall be, after having duly notified the clerks of the towns of South Scituate and Hanover, to establish the boundary line, now in dispute between the towns of South Scituate and Hanover, and duly report the same.

Expenses

Resolved, That the said towns of South Scituate and Hanover shall be required to defray the expenses of said commission, each of said towns paying one-half of said expenses. [*Approved by the Governor, May 31, 1856.*]

Chap. 80. RESOLVES in relation to the Territory of Kansas.

Territory of Kan-
sas.

Whereas, The congress of the United States has enacted a law establishing a government in the territory of Kansas which opens the said territory to the introduction of slavery; and *whereas*, armed mobs have invaded the territory of Kansas, interfering with the political rights and franchises of the settlers; and *whereas*, the Commonwealth of Massachusetts has asked in vain, through its legislature, the state government of Missouri, and the president of the United States, to protect the settlers of the territory of Kansas against the unparalleled outrages to which they have been subjected, which outrages have been heaped upon them by the slave interest in this country, for the purpose of forcing

INVASION.

Outrages com-
mitted.

slavery upon Kansas, against the will of its inhabitants, and against the wishes of a majority of the people of the Union ; and *whereas*, through the neglect of the government of the United States to protect the settlers and redress their wrongs, they have been left, as a last resource, to fall back upon the original right of self-preservation, and have appealed to the American people for justification and assistance ; therefore.

Appeal for assistance

Resolved, That we have heard the call for sympathy and aid which has come up to the people of the United States, from the settlers of Kansas, with the deepest solicitude ; that their sufferings have touched our hearts, and the manly defence of their rights has won our admiration ; and while we do not claim that as a state legislature we are clothed with power to initiate measures for their relief, we nevertheless present their case to the people of this Commonwealth, in full confidence that they will use all just and constitutional means to aid these heroic men in maintaining and defending their liberties.

Response to appeal

Resolved, That the inhabitants of Kansas are justifiable in declining to recognize the code of laws which was forced upon the territory by the act of a body of men calling themselves a legislature, and yet composed, in part, of persons who were not settlers ; and that the president of the United States, in endorsing those enactments as the true laws of Kansas, and, in his threat that the settlers shall be made to obey them, even at the point of the bayonet, has exhibited a servility to a sectional slave interest, and an indifference to the fundamental principles of justice and freedom, which merit the condemnation of the American people.

Condemnation of laws justifiable

Resolved, That this is a fit occasion to reassert the principle so often declared to be the doctrine of Massachusetts, that congress has power to prohibit slavery in the territories of the United States, and that this power should be exercised to its full extent.

Prohibition of slavery.

Resolved, That as the intrigues to thrust slavery upon Kansas have been growing more desperate ever since the repeal of the Missouri prohibition, until the question of free or slave territory is become a prominent and vital issue before the country, and threatens to drive the nation into a civil war, we hold that the speedy admission of Kansas into the Union as a free state, with her present constitution, is a measure of first importance to the welfare of that territory, and to the tranquillity and honor of the United States, and that our senators and representatives in congress are earnestly requested to use every exertion to bring about this result.

Importance of speedy admission as a free state.

Transmission of
resolves.

Resolved, That his excellency the governor be requested to transmit a copy of these resolves to the president of the United States, to the governors of each of the states and territories, and to each of our senators and representatives in congress. [*Approved by the Governor, June 3, 1856.*]

Chap. 81.

RESOLVE in favor of the State Prison.

\$9,200 appropri-
ated.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, the sum of three thousand dollars, for new boilers at the State Prison, and for setting the same; and that the further sum of six thousand dollars be, and hereby is, appropriated to be expended in raising the wall around the prison three feet in height, and erecting an iron railing upon the same, and the further sum of two hundred dollars to replenish the library, and that the governor is authorized to draw his warrant accordingly. [*Approved by the Governor, June 3, 1856.*]

Chap. 82.

RESOLVES concerning the Franking Privilege and Cheap Postage.

Low rates and
free delivery of
letters

Whereas, Experience has demonstrated that an uniform and very moderate rate of postage is productive, in England, of profit to the government, as well as convenience and economy to the people; and *whereas*, very large sums are annually charged to the post office department in this country, by reason of the increased and increasing use of the franking privilege, and by appropriations in aid of the mail steamships, under cover of disbursements for ocean postage; and *whereas*, congress alone has the power to remedy existing evils in the department, and to furnish to our citizens the greatest possible facilities for intercommunication, by establishing uniform and low rates of postage; and *whereas*, the experience of the past sixteen years in England, shows that the community can be far better accommodated, and the government not only indemnified against loss, but remunerated, by a reform of the evils and abuses which now exist, and by the introduction of low rates and free delivery in large cities; therefore,

Senators and rep-
resentatives in
congress to use
influence.

Resolved, That our senators and representatives in congress be requested to exert their influence to procure a thorough postal reform; especially by the introduction of a low and uniform rate of postage for the whole country; by making the franking privilege a direct charge to the government; by charging the expense of ocean steamers to the naval rather than the post office department, and by securing a free delivery of letters in large cities and populous districts.

Resolved, That his excellency the governor be requested to forward a copy of the foregoing preamble and resolve to each of our senators and representatives in congress. [Approved by the Governor, June 3, 1856.]

Transmission of resolves.

RESOLVES providing for the pay of the Council, Senate, and House of Representatives. *Chap. 83.*

Resolved, That there be paid, out of the treasury of this Commonwealth, to each member of the senate and house of representatives, three dollars per day for each and every day's attendance during the present political year, and one dollar for every five miles' travel from their respective places of abode, once in each session, to the place of the sitting of the general court; and also to each member of the council, three dollars for each and every day's attendance at that board, at each session thereof, during the present political year, and one dollar for every five miles' travel from their respective places of abode once in each session thereof; and to the president of the senate and speaker of the house of representatives, each, the sum of three dollars per day for each and every day's attendance, in addition to their pay as members; and that warrants be drawn accordingly.

\$3 per day, to each member, and travelling expenses.

\$3 per day extra to president of senate and speaker of house.

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to the clerk of the senate and to the clerk of the house of representatives, each, the sum of ten dollars per day; to the assistant-clerk of the senate and to the assistant-clerk of the house of representatives, each, the sum of eight dollars per day for each and every day they may have been employed during the present session of the present legislature, and the same sum per day, as is herein provided for those officers for such further time as they may be employed, not exceeding twelve days after the rising of the general court, in arranging the papers and documents of the session; and that there be further paid to the clerk of the senate and to the clerk of the house of representatives, the sum of three hundred dollars each, for preparing duplicate copies of the journals for the library, as required by the orders of the two houses; and to the clerk of the house of representatives such further sum as he may have paid for the preparation of the printed journal; and that warrants be drawn accordingly.

\$10 per day to clerks.

\$8 per day to assistant-clerks.

Compensation for arranging documents.

\$300 to each clerk for preparing duplicate copies of journal, &c.

Further sum.

Resolved, That there be allowed and paid, out of the treasury of this Commonwealth, to the chaplains of the senate and house of representatives, each, the sum of two hundred dollars, for their services during the present ses-

Chaplains to receive \$200 each.

sion ; and that warrants be drawn accordingly. [*Approved by the Governor, June 3, 1856.*]

Chap. 84. RESOLVE on the Petition of George O. Fairbanks and others, of Fall River.

Mayor indemnified for destroying liquors.

Resolved, That the mayor of Fall River be, and he hereby is, authorized to destroy, or cause to be destroyed, all the spirituous and intoxicating liquors, and the vessels containing the same, which have heretofore been seized in said Fall River under the three hundred and twenty-second chapter of the statutes of eighteen hundred and fifty-two, and for which indemnity has been or may hereafter be made from the treasury of the Commonwealth under the two hundred and seventy-first chapter of the statutes of eighteen hundred and fifty-five, to the magistrate, officers and others concerned in said seizure, and that said mayor pay all legal charges, to an amount not exceeding seventy-five dollars, for the removal and storage of the same, and that the governor draw his warrant therefor, in favor of said mayor, after satisfactory proof that said liquors have been so destroyed. [*Approved by the Governor, June 3, 1856.*]

Chap. 85. RESOLVE in favor of Ansel Wright and George F. Wright, of Northampton, Deputy-Sheriffs.

\$1,127.80 allowed.

Resolved, That, for reasons set forth in the petition of Ansel Wright and George F. Wright, of Northampton, there be allowed and paid, out of the treasury of the Commonwealth, to the petitioners, the sum of eleven hundred and twenty-seven dollars and eighty cents ; and the governor is hereby authorized to draw his warrant accordingly. [*Approved by the Governor, June 4, 1856.*]

Chap. 86. RESOLVE on the Petition of Lydia V. Dickson, praying that she may receive the Personal Estate of Elizabeth Lewis, deceased.

Public administrator to pay remainder of estate to Lydia V. Dickson.

Resolved, That, for reasons set forth in said petition, Duncan Bradford, Esquire, public administrator for the county of Middlesex, be, and he is hereby authorized, to pay over to Lydia V. Dickson, the amount of money that shall remain in his hands, as public administrator, the proceeds of the effects and estate of the late Elizabeth Lewis, deceased, after paying the claims against said estate ; and the receipt of the said Lydia V. Dickson therefor, filed by him in the office of the treasurer of the Commonwealth, shall be equivalent to paying the amount represented in such receipt, into the office of the treasurer of the Commonwealth, and shall be held a compliance with his duty, and a discharge of his official bond in the same manner, and to

the same extent as the payment of the same sum into the office of the treasurer aforesaid would be. [*Approved by the Governor, June 4, 1856.*]

RESOLVE in relation to the Massachusetts Records.

Chap. 87.

Resolved, That the contract for printing an edition of the Massachusetts Records, under the authority of the resolve passed on the fifteenth day of March, in the year one thousand eight hundred and fifty-six, shall be limited to three years from the date thereof. [*Approved by the Governor, June 4, 1856.*]

Printed in three years.

RESOLVE relative to the pay of Henry A. Marsh.

Chap. 88.

Resolved, That there be allowed and paid to Henry A. Marsh, the assistant-clerk of the house of representatives, the full amount of compensation that he would have been entitled to, had he been present in the discharge of his duties during the whole of the present session of the legislature. [*Approved by the Governor, June 4, 1856.*]

Pay to assistant-clerk.

RESOLVE in favor of Isaiah Stoddard.

Chap. 89.

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to Isaiah Stoddard, late assistant door-keeper to the house of representatives, the pay to which he would have been entitled during the present session of the legislature, were he not prevented by sickness from the performance of his duties; and the governor is requested to draw a warrant therefor. [*Approved by the Governor, June 4, 1856.*]

Pay to assistant door-keeper.

RESOLVE in aid of the New England School of Design for Women.

Chap. 90.

Resolved, That the sum of one thousand dollars annually, for two years from the first day of June next, be appropriated to the support of the New England School of Design for Women, payable in quarterly payments; and that his excellency the governor be authorized to draw his warrants therefor accordingly. [*Approved by the Governor, June 4, 1856.*]

\$1,000 annually, for two years.

RESOLVE concerning the State Reform School for Boys, at Westborough.

Chap. 91.

Resolved, That the sum of thirty-five thousand dollars be, and the same is hereby, appropriated to be applied by the trustees of the State Reform School at Westborough, for the support of that institution; and that the governor draw his warrant accordingly. [*Approved by the Governor, June 4, 1856.*]

\$35,000 appropriated.

Chap. 92. RESOLVES in relation to certain Resolutions of the Legislature of Connecticut.

Resolved, That the general court of Massachusetts receives with lively satisfaction and gratitude, the fraternal resolutions of the general assembly of Connecticut, expressing their sentiments of abhorrence in relation to the recent act of cowardly violence upon the floor of the senate chamber; their noble determination to unite with Massachusetts in defence of the vital right of freedom of speech, and their manly sympathy with her in the indignity offered to the State in the person of her senator.

Resolved, That his excellency the governor be requested to transmit a copy of the above resolution to the governor of Connecticut, to be laid before the legislature of that State. [*Approved by the Governor, June 4, 1856.*]

Chap. 93. RESOLVE concerning the publication of the State Laws.

§300 to Boston
Daily Bee, for
publishing laws.

Resolved, That there be allowed, to be paid out of the treasury of the Commonwealth, to the proprietors of the Boston Daily Bee, such sum, not exceeding three hundred dollars, as in the opinion of the governor and council, may be deemed proper, in consideration of publishing the laws of the Commonwealth for the current year; and the governor is authorized to draw his warrant for the same. [*Approved by the Governor, June 6, 1856.*]

Chap. 94. RESOLVE in favor of the State Almshouse at Bridgewater.

§1,407.48 al-
lowed.

Resolved, That there be allowed and paid, out of the treasury, the sum of fourteen hundred and seven dollars and forty-eight cents, to liquidate the debt against the State Almshouse at Bridgewater, and that the governor be authorized to draw his warrant accordingly. [*Approved by the Governor, June 6, 1856.*]

Chap. 95. RESOLVES to provide for the Expenses of the Insurance Commissioners.

§350 to commis-
sioners.

Resolved, That there be allowed and paid to the insurance commissioners, the sum of three hundred and fifty dollars; said amount having been expended by them in addition to the amount granted by resolve of May nineteenth, eighteen hundred and fifty-five.

§261.68 for rec-
ord books, &c.

Resolved, That the treasurer be, and is hereby, authorized to pay to Eayrs and Fairbanks the sum of two hundred and sixty-one and sixty-eight hundredths dollars; said sum being amount of their bill for record books, blanks and stationery furnished said board of commissioners, the same being required by the provisions of section third of the one

hundred and twenty-fourth chapter of the acts passed in the year one thousand eight hundred and fifty-five.

Resolved, That the sum of three hundred dollars be, and is hereby, appropriated for the payment of the contingent office expenses of said board of commissioners, for the ensuing year; and that the governor draw his warrant accordingly. \$300 for contingent expenses. [Approved by the Governor, June 6, 1856.]

RESOLVE in addition to a Resolve in aid of the New England School of Design for Women. *Chap. 96.*

Resolved, That the appropriation in aid of the New England School of Design for Women, made by the resolve approved by the governor June fourth, eighteen hundred and fifty-six, shall take effect and be payable from and after the first day of June, in the year eighteen hundred and fifty-six, instead of the first day of June next, as provided in said resolve. Appropriation, when payable. [Approved by the Governor, June 6, 1856.]

RESOLVE relating to the compensation of the Door-Keepers, Messengers and Pages of the General Court. *Chap. 97.*

Resolved, That there be paid, out of the treasury of the Commonwealth, to the door-keepers, messengers and pages of the general court, the sum of seventy-five cents per volume, for filing the documents of the senate and house, also, the journal, for the members of the general court, during the present session; and that the governor draw his warrant accordingly. Seventy-five cents per volume, for filing documents. [Approved by the Governor, June 6, 1856.]

RESOLVE for Repairs on the State House.

Chap. 98.

Resolved, That the sum of seven thousand two hundred and thirteen dollars be appropriated for making the necessary repairs and alterations upon and about the State House, and for payment of expenses already incurred thereon; and that the governor be authorized to draw his warrant accordingly. \$7,213 for repairs on State House. [Approved by the Governor, June 6, 1856.]

RESOLVE concerning the Pilgrim Society of Plymouth.

Chap. 99.

Resolved, That the sum of three thousand dollars be, and hereby is, appropriated for the purpose of contributing an alto-relief, in marble, of the landing of the Pilgrims, to be placed, as designed, in one of the panels of the national monument which the Pilgrim Society is about erecting at Plymouth, to the memory of the forefathers of this Commonwealth. And his excellency the governor is hereby authorized, with the advice and consent of the council, to \$3,000 to Pilgrim Society.

draw his warrants therefor accordingly, payable to the treasurer of said society in such sums as may seem expedient, in proportion to the entire work. [*Approved by the Governor, June 6, 1856.*]

Chap. 100

RESOLVE concerning the Printing for the Commonwealth.

Secretary, &c.,
to contract with
William White,
to execute State
printing.

Resolved, That the secretary of the Commonwealth, the State auditor, and the clerks of the senate and house of representatives, be directed to contract with William White, in the name and on behalf of the Commonwealth, that said White shall execute the printing for the various departments for one year from the first day of April, eighteen hundred and fifty-six, at the rates specified in the contract of last year: *provided*, that bonds satisfactory to the secretary of the Commonwealth to the amount of five thousand dollars, be given by said White for the faithful performance of said contract. [*Approved by the Governor, June 6, 1856.*]

Chap. 101

RESOLVE relating to extra Clerk Hire.

\$376 for extra
clerk hire.

Resolved, That there be paid and allowed, out of the treasury of the Commonwealth, to the clerk of the house of representatives, for the payment of the extra clerk hire employed by him, the sum of three hundred and seventy-six dollars, and the governor is hereby authorized to draw his warrant accordingly. [*Approved by the Governor, June 6, 1856.*]

Chap. 102

RESOLVE concerning the Journals and Papers of the Senate.

\$750 for indexing
journals of Sen-
ate, &c.

Resolved, That the clerk of the senate cause to be continued the general index of the journals of the senate, commenced by the late clerk, and cause a copy of the same to be made and deposited in the State library; and that he also cause to be completed the catalogue and index of the files of the senate, to the end of the present session: *provided*, that the whole expense of the work hereby authorized to be done, shall not exceed the sum of seven hundred and fifty dollars; and that the governor be authorized to draw his warrants monthly to defray the expense of the same. [*Approved by the Governor, June 6, 1856.*]

Chap. 103

RESOLVE for the payment of the Contingent Expenses of the Council, Legislature and Offices in the State House, for the year one thousand eight hundred and fifty-six.

\$2,500 for certain
contingent ex-
penses, &c.

Resolved, That there be paid, out of the treasury of the Commonwealth, to the serjeant-at-arms, a sum not exceeding two thousand five hundred dollars, to enable him to defray certain contingent expenses of the council, general

court, and offices in the State House, for the present year; and also to enable him to pay any sum not covered by the appropriation made for the same purposes, in the year one thousand eight hundred and fifty-five; and the governor is hereby authorized to draw his warrants, from time to time, accordingly. [*Approved by the Governor, June 6, 1856.*]

INAUGURAL ADDRESS

OF

HIS EXCELLENCY HENRY J. GARDNER.

REPRESENTATIVES' CHAMBER, Jan. 3, 1856.

At one o'clock, His Excellency the Governor, accompanied by His Honor the Lieutenant-Governor, the members of the Executive Council, and the various officers of the government, attended by a Joint Committee of the two Houses, and the Sheriff of Suffolk, met the Senate and House of Representatives, in convention, and delivered the following

A D D R E S S .

*Gentlemen of the Senate
and of the House of Representatives:—*

We have been called, by the suffrages of our fellow-citizens, from our various occupations and pursuits, and intrusted with the responsibilities and duties attaching to the executive and legislative branches of our State government, for the present year. In the language of the Constitution, "acknowledging with grateful hearts the goodness of the great Legislator of the Universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably," to meet together for duly considering the com-

mon wants of our common constituency, and "devoutly imploring His direction in so interesting a design," may we devote our best efforts, without personal considerations, party bias, or local prejudices, to promote the true interests of the people of Massachusetts.

The semi-decennial census, taken during the past summer, in pursuance of the Resolve of 1855, presents an authentic and most gratifying record of the rapid increase of our State in population, and in the magnitude of her various agricultural, mechanical and commercial resources. Never before has she been permitted by a gracious Providence to advance so rapidly, in every thing which conduces to the prosperity and happiness of a community.

The statistics of her industrial pursuits are not yet so classified and arranged, as to permit me to state with accuracy their aggregate results; but I am enabled to announce that the population of Massachusetts, by that census, is *one million one hundred and thirty-three thousand and thirty-three*, showing an increase of nearly one hundred and sixty thousand persons during the past five years. The following is a table of the total population, as exhibited by each census since 1800, the amount of the increase in each decade, and the average gain per cent., per annum:—

Years.	Census.	Increase in numbers.	Average gain per cent. per annum.
1800,	422,845		
1810,	472,040	49,195	1.11
1820,	523,287	51,247	1.04
1830,	610,408	87,121	1.55
1840,	737,700	127,292	1.91
1850,	973,715	236,015	3.20
1855, (5 years.)	1,133,033	159,318	3.27
Increase in 55 years.		710,188	
Census of 1800,		422,845	
Census of 1855,		1,133,033	

The Legislature of 1854 initiated several important amendments to our Constitution, all but one of which received the necessary sanction of the Legislature of 1855, and were ratified by the popular vote on the 23d of May last. They provide that a plurality of votes shall elect in the popular choice of all civil officers under the Constitution,—that the time of the State election shall be changed to conform to the day fixed by Congress for the choice of presidential electors,—that eight Executive Councillors, the Secretary, Treasurer, Auditor, and Attorney-General, shall

be chosen by popular vote,—that the school moneys shall not be applied to the support of sectarian schools,—and that the Legislature shall prescribe by general law for the choice of District-Attorneys, Sheriffs, Registers of Probate, Commissioners of Insolvency, and Clerks of Courts, by the people.

It becomes therefore your duty at the present session, to “divide the Commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one Councillor;” also, “to prescribe by general law, for the election of Sheriffs, Registers of Probate, Commissioners of Insolvency, and Clerks of the Courts, by the people of the several counties,” and “District-Attorneys by the people of the several districts.”

I deem it a source of great regret that the other amendment, relative to a reduction in the number of the House of Representatives, and a division of the State into equal Senatorial and Representative Districts, based upon the number of legal voters, which passed the Legislature of 1854, by the constitutional majorities, should have been defeated at the last session. Our popular branch is by far the largest deliberative body in the Union: too large for a prompt and economical discharge of its duties; and, unwieldy as it has been, the plurality law will probably add a hundred members to its average number. The experience of nearly every session demonstrates that the Senate passes weeks of comparative idleness, while waiting for the concurrent action of the House. A simple calculation shows, that were our popular branch to approximate in number those of New York, Ohio or Pennsylvania,—having two or three times the population of Massachusetts,—the cost of our legislation would be diminished one hundred thousand dollars per annum, even without taking into consideration the reasonable probability that the length of the sessions would thereby be diminished. The present basis of representation, though perhaps as fair as any which is feasible while the present system remains, causes much complaint of inequality and injustice among portions of our citizens: while an equal district system, where every man has a direct vote every year for his immediate representative, is certainly as fair and impartial as can be practicably devised. Persuaded that this is simply a question of time, I submit to your consideration whether it is not expedient, at the present session, to make another effort to accomplish this object.

The Legislature of 1855 initiated also several constitutional amendments, which necessarily come before you.

The first provides that "no person owing allegiance to any foreign prince, power or potentate, shall be eligible to any office under the Constitution of this Commonwealth." And another intended to provide that none but the native born shall be eligible to office, and that no alien shall be allowed to vote unless he has been a resident within the United States twenty-one years and legally naturalized.

Believing, as I profoundly do, that the principles embraced in these amendments are of the deepest importance to the preservation of a republican government, I earnestly trust that they may receive your sanction. The teachings of history, as well as the uniform convictions of every enlightened and philosophic thinker upon the principles of self-government, tend to the conclusion, that the unshackled freedom of individual opinion and the education of the individual mind, form the only true foundations of rational liberty and true republicanism. The more these truths are disregarded, the more certain it is that liberty under democratic institutions will degenerate into anarchical license, or give place to a slavish and bigoted superstition.

This Republic of ours, of continental dimensions, stretching from ocean to ocean, from the extreme verge of the temperate zone almost to the tropics, destined, within the life time of some of the present generation, to embrace within its borders a hundred millions of people, of diverse origin, of varied occupations and conflicting interests,—the model and trust of the struggling nations of the old world,—is yet an experiment. In its very grandeur there are elements of danger, and its present success gives rise to a commensurate feeling of solicitude.

It is our solemn duty, and one that no true son of Massachusetts, or of America, will shrink from, to guard against every evil that threatens the perpetuity of our institutions. It demands of every patriot, by whatever party name he prefers to call himself, to do all that in him lies to protect the sacred privilege of the ballot, and the power of making and enforcing the laws, from the hands of those who of necessity cannot comprehend the nature of our republican institutions. No man being deprived of his present rights constitutionally guaranteed to him, none prevented from finally attaining the privilege of joining with us in the selection of our common rulers, all who seek our shores may be admitted to our franchises, when they shall have passed through the same period of probation required of the native born, and have become familiar with the theory, accustomed to the workings, and been taught by experience, the benefits

of our system of self-government. No right is abridged that international comity demands, but we ourselves, hitherto an exceptional case in the family of nations, now seek to place those safeguards around our own institutions, that every Christian government of the old world has been taught by experience or necessity were essential to the protection of its own.

The necessity of this course is apparent in every year's experience;—its paramount duty is impressed upon us by the concurrent teachings of the patriotic living statesmen and the illustrious dead:—its absolute importance is written in the rise and fall of every extinct republic:—we read it in the wise laws of every contemporaneous civilized government:—the obligations of our official station and our duty alike to the stranger who shall come among us, and to our children who shall come after us, demand it at our hands.

When the original founders of our Republic erected the framework of our institutions, at a period when the immigration to our shores was but five thousand per annum, with just and patriotic jealousy of those reared under opposing systems of government, and scanning with searching eye the experience of history, they wisely declared, by an organic and fundamental law, that the chief executive officers of our government, those to whom alone are intrusted the gravest duties and highest responsibilities, of selecting the Cabinet, of appointing the Judiciary, of signing or vetoing all national enactments, of commanding the army and navy, of making treaties in conjunction with the Senate and of presiding over the august deliberations of that body, should be those alone who were then citizens, or should thereafter be born within the jurisdiction of the United States. Were those patriots to day to reconstruct their work, with the experience of the past three-quarters of a century before them, with that trifling number swollen into the immense annual immigration of five hundred thousand, half a million souls,—a population of a great state, and surpassing that of many of our confederacy,—increasing with an increasing ratio,—it is not too much to suppose that the safeguard as to birth then applied to our highest officers, would be extended to all, if not also to every voter whose ballot is instrumental in their election.

That duty is handed down from them to us. Nobly and fearlessly did they perform what fell to their generation, confident in the belief and expectation that their children

could be safely left in their turn to complete their work, as experience should require, or danger demand.

I have spoken of the *principles* of the amendments you will be called upon to consider. Unfortunately, in the hurry of the closing days of the session, the phraseology of the one last referred to is so imperfect as to need, in my judgment, essential modification, and therefore, renders necessary its renewed passage in an amended form. It provides that "no person shall be entitled to vote in this Commonwealth, unless he shall have been a resident within the jurisdiction of the United States twenty-one years, and legally naturalized." Doubtless the phrase "of foreign birth" was intended to have been inserted immediately after the first two words.

In consonance with the above principles, I would also suggest the expediency of a constitutional amendment, similar to that which the people of a neighboring State have recently ratified, that no person shall be permitted to vote who cannot read and write.

One additional amendment yet remains for your consideration, which provides that "no person shall be imprisoned for any debt hereafter contracted, except in cases of fraud." I also commend this measure to your favorable action.

The power conferred by the Constitution of our State, upon its chief executive magistrate, of vetoing the acts of the Legislature, is granted in general terms, without limitation as to cause, and has frequently been exercised by many of my predecessors. It has long been the opinion, however, of some of our most eminent statesmen, that the true theory of a republican government, and a wise statesmanship, inculcate, that except where the executive is convinced of the unconstitutionality of the measure proposed, or in the event of evidently hasty and ill-considered legislation, the deliberate desire of the immediate representatives of the people should not be thwarted by the interposition of the veto power.

Entertaining these views, I have heretofore given my approval, in some cases, to acts and resolves, the expediency of which I somewhat doubted, or which were merely declaratory of the sentiments of the Legislature. This rule will continue to guide my action; but from all measures presented for my consideration, involving, in my deliberate judgment, constitutional doubts, I shall in the future, as I have heretofore, unhesitatingly withhold my sanction.

One Act of this nature, notwithstanding the decided opinion of the Attorney-General, that it was "clearly re-

pugnant to the provisions of the Constitution of the United States," and "that in his judgment the bill is in violation of the Constitution" of Massachusetts, notwithstanding it attempts in express terms to give the sanction of law to what our Supreme Court, in an opinion signed by all its Justices, in reply to a question propounded to them by the Executive, with the advice and consent of the Council, declared could not "rightfully or legally" be done, notwithstanding also the consequent withholding of the Executive approval from it, became, by the requisite constitutional majorities, the law of Massachusetts.

The people of our State, knowing how essential a sacred observance of law is to the perpetuity of our, or any, republican institutions, recognizing the blessings derived from the Constitution of the United States, both for security at home, and dignity abroad, unhesitatingly acknowledge all their obligations to obey the requirements of that instrument. When one of the confederated States futilely attempted to nullify its powers, there was but one feeling of reprobation throughout all our borders. The ablest statesman Massachusetts ever intrusted with her interests on the floors of Congress, by his successful maintenance of the paramount authority of the Constitution of the United States, displayed a comprehensiveness of statesmanship, which was even greater than the majestic eloquence with which he vindicated his position.

The passage of this Act is deeply to be deplored, because "it asserts or looks to the maintenance of rights not clearly and constitutionally ours," which course of action, in my Inaugural Address, I strenuously urged the last Legislature to avoid,—because it weakens the moral effect of the influence of our State,—because it sets an example, which, if followed by other members of the confederacy, will most certainly destroy our only bond of union,—and because it tends to an armed conflict between the State and the National governments. Either this law must remain a dead letter on our statute book, unenforced when the hour of trial comes, thus reducing Massachusetts to the humiliating position of enacting a law she has not the courage to enforce, or else, if the attempt is made, it must be supported by the whole military array of the State in direct and immediate conflict with the army of the United States. There is no alternative but submission, or open war.

While Massachusetts will be loyal to her constitutional obligations, she demands that all her constitutional rights shall be respected. She asks the fulfilment of national

compacts, the faithful performance of the sacred agreements of the fathers, and, though the Act referred to has temporarily diminished the moral weight of this demand, its repeal will go far to give her voice its former power. Her people, in common with the entire North, and many at the South, believing slavery to be a moral, social and political evil, claim no power to interfere with it in those States, where by local law it exists; but they demand, by a united voice in both branches of Congress, and by almost as united a sentiment at home, that it shall not be suffered to extend itself into those territories where by solemn covenant our nation has stipulated that it should never enter. The dispassionate judgment of our citizens will at once teach them that this end, so much to be desired, cannot be promoted, but, on the contrary, must be seriously retarded, by the passage, or continuance on our statute book, of a law of acknowledged unconstitutionality.

I therefore recommend that so much of this Act, entitled "An Act to protect the Rights and Liberties of the People of the Commonwealth of Massachusetts," as may conflict with the Constitution of the United States, and all laws made in pursuance thereof, be repealed.

The last Legislature enacted a law for the suppression of the sale of intoxicating liquors, with more stringent provisions and heavier penalties than have heretofore entered into our legislation upon this subject. The question as to its expediency, and the good or evil results flowing from this enactment, were widely discussed before your constituents, and have materially affected the constitution of the present legislative body. Coming from all portions of the Commonwealth, with personal knowledge as to the practical operation of this Act, and the wishes of the people regarding it, and possessing the means of judging whether the past year's experience leads to a reasonable expectation that it can accomplish the purposes for which it was designed, your action in reference to it is awaited with great solicitude. Intemperance is a gigantic evil. Measures for its remedy demand the deepest feeling of the philanthropist, the profoundest thought of the patriot, and the wisest counsel of the statesman. I trust that your deliberations and conclusions will result in substantial and abiding good to our entire community, and to that end you shall have my warmest sympathies and heartiest coöperation.

There is one evil of comparatively recent growth, but of so grave a nature as to merit your consideration, which annually costs the State large sums of money, both by pro-

longing the session, and by causing injudicious or unnecessary grants, which the Legislature can materially lessen, if not wholly remove, by a course its own dignity and the welfare of the Commonwealth alike demand. I refer to the constant attendance on the sessions of the Legislature, of individuals who sell their adventitious personal or political influence to the highest bidder, for the purpose of procuring special charters, privileges or grants. Indifferent to the real merits of the questions at issue, anxious only to secure their own pay, usually contingent on their success, they officiously press their solicitations upon the honest and unsuspecting legislator, and by partial and often false representations, secure the passage of measures by the use of means which render impartial debate impossible, and public deliberation a delusion. When legislation is transferred from the Hall and the Chamber to the Lobby,—when the legitimate action of the duly constituted committees is superseded by practices subversive of fair investigation, when ordinary business, and meritorious and unobtrusive claims are overridden by the clamorous demands of schemes bolstered into undue importance by a factitious public opinion, it is well to revert to the primary objects and theory of public deliberative assemblies.

The financial condition of our State is such as to demand rigorous and minute economy in every branch of public expenditure. It is my firm conviction that grants of money have been made, and expenditures authorized by the Legislature, for several years past, that the condition of our treasury, and the public necessity, did not warrant. The time has fully come when all such grants should cease; and I consider it, after mature reflection, to be my duty, in every instance hereafter, while I occupy my present post, to deem such appropriations proper objects of an executive veto, and to withhold my approval from any bill by which they may be authorized.

For a number of years the annual deficit has been growing larger, and the excess of expenditure unprovided for, increasing, until now the sum of \$825,000 is necessary, beyond our probable receipts, to enable us to liquidate our floating indebtedness at the close of the present year. The question as to what course shall be adopted to accomplish this end, you are called upon to determine. The State owns \$750,000 of stock in the Western Railroad, but in my judgment it would be highly impolitic, if practicable, to sell it at the present time. We have a just claim against the general government, amounting to \$227,176.48, for services performed, and expenditures actually made, to repel invasion

during the war of 1812. If this sum is reimbursed at the present session of Congress, as it should be, and as every other claim of a similar nature already has been, it would absorb one-quarter of this floating debt. An indefinite, and by present law, unsalable interest in the Back Bay Lands, is the only other property possessed by the State, the proceeds of which are not devoted to specific purposes. Under these circumstances, it only remains to fund this floating debt or a portion of it, or to pay it by direct taxation.

The Auditor has furnished me with the following table of approximate expenditures and receipts for 1855, which are contrasted with those of 1854:—

Expenditures.	1855.	1854.
Legislative and Executive,	\$473,250 00	\$354,398 00
Scientific and Educational,	19,969 00	20,686 00
Interest on Public Debt,	108,517 00	100,652 00
Charitable and Humane Purposes,	330,656 00	236,252 00
Correctional and Preventive Purposes,	236,961 00	170,355 00
Military,	78,339 00	67,489 00
Pub. Buildings not provided for by scrip,	130,640 00	
	<hr/>	
	\$1,378,332 00	\$949,832 00
Receipts.		
Bank Tax,	\$578,983 00	\$525,868 00
Alien Passengers,	9,848 00	50,000 00
Income from Western Railroad,	101,169 00	119,696 00
Sundry accounts,	8,410 00	9,308 00
Cash on hand,	18,609 00	13,410 00
	<hr/>	
	\$717,019 00	\$718,282 00
Add State Tax,	450,000 00	*150,000 00
	<hr/>	
	\$1,167,019 00	\$868,282 00
	<hr/>	
Excess of expenditures over receipts,	\$211,313 00	\$81,550 00
The Auditor estimates the ordinary expenditures for the present year at about \$1,121,600 00		
And the receipts at about 717,600 00		
		<hr/>
Showing a probable deficiency for this year of		\$404,000 00
Add to this the aggregate deficits previous to 1854, amounting to about		128,000 00
The deficit for 1854,		81,550 00
And the deficit for 1855,		211,313 00
		<hr/>
And it shows the amount of our floating debt, at the close of our present financial year, to be		\$824,863 00

* There is an error of \$150,000 in the amount of the State tax for 1854, in the schedule furnished by the proper department, but the estimates remain as originally presented to the legislature.

Over half of the increase in the item of the Executive and Legislative Department for 1855, arises from the fact, that the House was larger than previous ones, and that the session was protracted to an unusual, though not unprecedented length, when it would have been greatly shortened but for the enormous pressure upon it of innumerable petitions for State aid to private schemes, and for grants of special franchises; while about \$9,500 have been paid as indemnification for officers, and for refunding fines under that provision of the prohibitory liquor law of 1852 declared unconstitutional; and \$46,000, or nearly all the remaining increase, has been incurred for State Printing, Indexes and Journals. The excess of \$96,000 in the Charitable and Humane expenses, is made up of an extraordinary grant of \$25,000 to the Idiotic School, and from the additional expenses of the four State Almshouses and new Lunatic Hospital, arising from the increased cost of the necessaries of life, and for their support during the whole year, instead of but eight months for the former and nine for the latter, as in 1854. The excess under the head of Correctional and Preventive expenditures, is attributable to the increase of the county balances, while the item of \$130,640 for public buildings not provided for by scrip, comprises appropriations to that amount for the addition to the State House, for the four State Almshouses, and the Taunton Hospital, from the *ordinary revenue*, instead of the usual course of providing for such expenditures by a loan. The deficit in the receipts for Alien Passengers is owing to \$13,000 appearing in last year's account, which sum was actually received previously, and from the gratifying circumstance that the number of immigrants arriving in our State has sensibly diminished.

Under the grants of the last session to the four State Almshouses, such necessary alterations in the structures have been made as the safety of the inmates actually required. At Rainsford Island a brick hospital has been commenced, though not yet wholly completed, calculated to contain a hundred female patients. At the three others, fire-proof buildings of brick and stone have been erected for domestic purposes, and no fires are now needed or used in the main buildings, excepting to heat them. The farms connected with each have been much improved, and a large proportion of the vegetables required by their occupants, has been produced by their labor. Their schools are in a satisfactory condition. Daily religious services are held in one of them, and in all on the Sabbath.

The past year has also witnessed some improvement in

furnishing the inmates of these institutions with employment. In agricultural and domestic labor, the larger portion of the paupers have been occupied. Still much remains to be done to secure to each some species of labor that will prevent the lazy from seeking a shelter, add to the health and comfort of all, and diminish, to some extent, the cost of their support.

I again suggest, for the consideration of the Legislature, the propriety and necessity of enlarging the powers of the Board of Alien Commissioners. It may be deemed advisable that a Board devoted solely to these duties, should be created, to consist of two persons besides the Alien Passenger Agent. They should have the entire regulation of the admission and transfer of paupers to the different Almshouses,—of removing the alien pauper insane to the Lunatic Hospitals,—of sending paupers out of the State to those places where they have a settlement,—and authority to apprentice minors,—to examine books of Savings Banks when there is reason to believe persons claiming support as foreign paupers have funds there invested,—to take measures to reimburse the State for what may have been expended for their support,—to sue for the recovery of any debts due, or property belonging to them, for the same end,—to pay the cost of transporting paupers to their friends when the interests of the Commonwealth require it,—to investigate all cases of supposed settlements against towns or cities,—and to institute legal proceedings for reimbursement of expenses incurred within six years previous.

One of the main purposes in establishing the State Almshouses, was to prevent the constant conflict between the Town and State authorities, regarding the support of paupers; but the law of last year, allowing towns payment for transporting them to these institutions, and for keeping those represented as sick, reopens this very difficulty. The law, moreover, is liable to great abuse. It has, during the short time of its operation, involved the State in an unnecessary expense of several thousand dollars, and therefore should be repealed.

Under the vigilant and systematic supervision of the present officers, the State has been relieved during the year from the support of the following number of paupers:—

Sent from Boston to Liverpool,	295
Sent from Boston to various other places where they had settlements,	341
And, under the law of May 24th, 1851, there have been returned to various places out of the State, from Boston,	378
	—
	1,014

From State Almshouse at Tewksbury,	114	
From State Almshouse at Bridgewater,	119	
From State Almshouse at Monson,	61	
		294
Total,		1,308

Had the laws not been thus enforced, it is believed that every one of these persons would now be inmates of our State Institutions, at a cost this year of at least *one hundred thousand dollars*, and the same amount per annum, hereafter, while they remained. Nearly every one of those shipped to Liverpool, went with their own consent, though some of the number, it appeared, were originally sent to this country as criminals or paupers. Had they been retained here, and we continued to allow our State to be the receptacle of the vicious, the degraded and the insane, whom foreign parsimony and cruelty might deliberately and unfeelingly send to our shores, additional Almshouses and Hospitals would be necessary for their shelter and confinement. Christian philanthropy should be exercised, as heretofore, in every thing relative to their return; but they should be sent back systematically, uniformly and speedily.

On the last day of the session of the last Legislature, a Bill was presented for my consideration, authorizing an extension of the northerly shore of South Boston. As but a few hours of the session remained, and many other bills were awaiting my signature, no time was permitted me to give it that thorough investigation its importance demanded. A cursory examination showed that it limited the riparian owners, by arbitrary and fixed side lines, instead of allowing each one the flats appurtenant to his upland, extending in the same direction beyond the line of private rights, as they did within it. I therefore did not sign the Bill, and it failed to become a law.

Farther investigation has since satisfied me, that the Act in question involved gross violation of the private rights of a portion of the shore-owners, conferred improperly a large and valuable gift upon others, and was in its principles an anomaly in legislative grants. It is much to be desired that these flats should be improved up to the line which the State Commissioners have fixed, as the boundary, to which their filling will not be detrimental to the harbor of Boston. According to the report of various commissioners, the State has no vendible interest in these flats, but merely the right of eminent domain for the benefit of the public, subject to the right of the shore-owners to pass and repass, which it

can at any time properly waive, when it conceives that the community will not be thereby injured.

If it has no vendible interest,—and the petitioners for this Bill are unanimously of that opinion,—it necessarily follows that it has no interest which is properly the subject of a grant. Therefore it cannot establish artificial side lines, and bestow, by arbitrary metes and bounds, exorbitantly upon one, and little or nothing upon many. The most it can legitimately do, is to release its claim on all the flats within the limits of the commissioners' line, and leave the shore-owners to occupy and improve so much as is respectively appurtenant to their present property, according to the uniform principles of law, which the decisions of our courts, for nearly two hundred years, have recognized and established as the universal rule, equally applicable to all the citizens and all the shore property of the Commonwealth. A Bill founded on such principles would have received my sanction.

In pursuance of an Act of the last Legislature, a Board of Insurance Commissioners has been appointed, with power to visit companies, inspect books, and examine officers under oath. The expediency of the establishment of this commission will be apparent, when it is considered, that the amount of property insured in this Commonwealth, by home and foreign companies, exceeds the enormous sum of *five hundred and twenty-five millions of dollars*. There is abundant reason to believe that many times the cost of this commission has already been saved by its preventing the admission into the Commonwealth of several insolvent and fraudulent companies from other States, which have attempted to do business here.

It is important to the public security that the Legislature should proceed with the most cautious scrutiny in granting acts of incorporation, inasmuch as insurance charters have of late become articles of merchandise. It is ascertained that of more than sixty companies chartered within the past ten years, not one-third have gone into operation, and of the seventeen incorporated by the last Legislature, but four are now organized.

The Commissioners, appointed by my predecessor, under the Act to establish a State Reform School for Girls, have selected, in the town of Lancaster, a site every way adapted, by natural facilities, for the intended purpose. The three main buildings are nearly completed, a house suitable for the superintendent and farmer being already on the place. A Board of Trustees from various sections of the State have

been appointed, and, as required by law, have taken charge of the farm. A superintendent has already been chosen, by-laws prepared and approved, and in a few months the school will be opened for the reception of inmates. A small appropriation will be necessary to erect a chapel, to furnish the buildings, and to provide the necessary implements and stock for the farm. The report of the Commissioners and Trustees will furnish farther information in reference to this institution.

It is my duty only to remark that this school differs from every other in our country, in being intended exclusively for girls; in its classification, gathering its inmates into small families by themselves, and thus securing home discipline; and in placing the supervision and instruction of the several "homes" under their respective matrons. While it is a truly noble and Christian act in the State to make provision for its exposed children, and by the exercise of a wholesome and economical foresight to defend herself from sorer burdens in the future, yet the whole plan is a delicate experiment, which, though now promising beneficial results, requires the greatest prudence, patience, wisdom and humanity to insure its anticipated success.

In pursuance of the provisions of an Act of the last Legislature, Commissioners have been appointed to erect, in western Massachusetts, a third Lunatic Hospital. After a personal examination of more than a hundred localities, a site, in every way admirably adapted to the purpose, has been selected and purchased, in the town of Northampton, contracts have been effected, in accordance with the plans decided on, and some progress made in the necessary preliminary labor. It is expected that the building will be completed and occupied during the ensuing year. Though it is thought by some, that the period, when a third Lunatic Hospital was absolutely necessary, has been somewhat anticipated, all can turn with pride to that Christian humanity, which places our State so far in advance of all others, in proportion to her population, in the care and comfort of this most unfortunate class.

Our various other charitable and reformatory institutions, so far as I have been able to advise myself, are generally in a satisfactory condition, and compare very advantageously with those of any of our sister States. I refer you to the reports of their various boards of management for more minute particulars concerning them.

No portion of my official duties has been more agreeable than those performed as a member of the State Board of

Agriculture ; and, though the relative expenditure of money under this head is small, no department of government is intrusted with a subject of more intimate concern to our entire community. The wise foresight, which encourages the different county societies by a State grant, and which gives to each of them a direct representation at the Central Board, where the experience of all is considered and compared ; and the practical sagacity which established the State Farm, where, without annual cost, valuable results are arrived at by experiments in fertilizers, in improving breeds of stock, in introducing vegetable productions new to the State, and in testing theoretical probabilities by actual trials, have largely contributed to raise the standard of farming, and to stamp that degree of excellence on our agriculture, which our soil and climate would seem to forbid, and to which, without these facilities, we should not have attained. By these methods, judiciously improved, as they doubtless may be, it is possible that the agricultural perfection of Old England may be rivalled, or even surpassed, and our State become the model farm of the world.

During the past year, the gentleman, who has for seven years, ably and devotedly, filled the post of Secretary of the Board of Education, having been transferred to another field of labor, has resigned, and the Board have chosen a distinguished citizen of our State as his successor. The school returns for the past year present some interesting and gratifying results. They show, though the year was one of no inconsiderable financial embarrassment, an increase in the amount raised by voluntary taxation in the State, for the support of public schools, unparalleled in any one year before ; that this sum is double the amount raised for the same purpose only ten years ago ; that in no community in the world, probably, is so large a sum per head expended for educational purposes, and in none do the children so universally avail themselves of this invaluable privilege.

These returns show that the amount raised by voluntary taxation for support of public schools for the year was,	\$1,137,408 00
The sum raised the previous year was.	1,013,872 00
Increase,	\$123,636 00
The largest previous annual increase was but	\$92,072 00
The amount raised ten years ago, 1844-5, was but	\$576,556 00
The number of persons in the State between 5 and 15 years, is	213,934

The whole attendance upon public schools in the winter of 1854-5, was	202,709
The whole attendance upon public schools in the summer of 1854-5, was	189,997
The whole attendance upon private schools and academies, in 1854-5, was	22,287
The value of all the school edifices in the State is returned as	\$4,576,457 00
The aggregate ordinary annual expenditure for the education of our youth, <i>exclusive</i> of collegiate instruction, and of interest on the cost of school-houses, by the actual returns, was	\$2,162,293 00
or, <i>ten dollars and eleven cents</i> for each child in the State between five and fifteen years of age.	

These facts are presented not merely because they form the bright and truthful record of the past, but as an incentive to future effort in the cause of popular education. In no way can a republic be ennobled, or its individual members approach that high standard of intelligence and cultivation, which fits them properly to perform their varied obligations, but by the systematic, thorough and universal education of each successive generation.

In this connection I cannot forbear expressing my surprise that the liberal provision of the State for educating, in any college within its borders, a number of young men, on condition that they shall devote themselves to teaching for a limited period after graduating, is not more highly appreciated and eagerly embraced. Notwithstanding a very general notice in the public papers, several districts, entitled to a free scholarship, did not present a single candidate the past year, and the Board of Education, when assembled to consider applications for this privilege, was actually compelled to adjourn, leaving a portion of the scholarships unfilled, for want of applicants.

The Report of the Adjutant-General will show that our State Military is in a flourishing condition. Our system has received high encomiums, from competent judges, as possessing many advantages and few defects, and applications for copies of our laws have been received from several States, with the view of incorporating into their own, some of its peculiar features. The discipline of our soldiery is admirable, and perfect harmony prevails throughout the different branches of the service. It is to be hoped that a system, which has proved so successful, may remain without essential modification. No finer body of ten thousand young men can be found in the world, than the volunteer citizen

soldiery of Massachusetts. Differing in loyalty and enlightened patriotism in no way from our other citizens, their interests being our interests, and their rights our rights, it is apparent that both can be intrusted, in the hour of emergency, to none so safely, as to those having with us a common brotherhood and a common destiny.

About \$50,000 have been received from the purchasers of eastern lands during the past year. Under a Resolve of the last Legislature, the Land Agent, on the first of January, advertised all tracts in Maine, on which notes were over due; and all, on which such over due notes shall not be paid, within one year, will revert to the State, and all payments made thereon will be forfeited. In every instance, the Commonwealth is believed to be perfectly secured for every dollar due.

Although deeply conscious of the necessity of retrenching the expenditures of the State, a sense of duty compels me to suggest to your consideration the expediency of increasing the salaries of the Judges of the Supreme Judicial Court. They were established at their present amount, fifty years ago, when the expenses of a household, as well as the rates of professional emolument, were very far below the present standard. Then their duties occupied only eighteen weeks per annum, and now the whole year scarcely suffices for the performance of their increasing labors. It is asking too much of men, who are fitted by nature and culture for such exalted positions, to relinquish the professional emoluments their distinguished abilities would command, for the meagre salaries they now receive, which, though doubtless suitable to the period when they were originally established, are at the present time entirely inadequate.

I recommend that no new bank charters be granted. Should it be your belief, that our present banking capital is not commensurate with the demands of our industry, a prudent and limited increase of the stock of existing institutions, is undoubtedly preferable to granting additional charters. Still, if increased capital is authorized at all, it should be permitted only in exceptional cases, sparingly and with caution. Our system of currency is so complicated and delicate, its beneficial working can be easily disturbed, and any legislation is to be deplored that would tend to impair its efficacy or disarrange its harmonious action.

I would, however, renew a former suggestion, that holders of bills of insolvent banks should have, by law, a prior claim over other creditors. The wisdom of the Legislature might prefer as a substitute to reserve two per cent. of the annual

Bank Tax, which would amount to about \$12,000 per annum, until a guarantee fund of \$100,000 was secured, which should be appropriated to the payment of the bills of a less denomination than \$10, of any bank, chartered by the Commonwealth, which should become insolvent. The bill holder takes trustingly whatever the State, under its special charters, permits to be issued as currency, confident that the law will protect him in so doing by all just enactments. In one insolvent bank, now in the hands of receivers, three thousand individuals are bill holders, two-thirds of them for less than \$20 each, and three-quarters of the whole number are laborers and females, who received the bills in payment for their individual labor. This plan would entitle our bank bills to such confidence throughout the Union, as would insure their general circulation, while the State would have a claim upon the insolvent bank for the amount it might redeem, and the poorer classes be protected, by the wise and paternal forethought of the government, from the loss of what perhaps is all they possess.

The past year has witnessed renewed instances of fraud in making over-issues of stock in corporations, and, till a suitable penalty is affixed to such crimes, by legislative action, they will continue to be repeated, and their perpetrators to escape punishment. It is the duty of the Legislature to protect the innocent stockholder and creditor, by applying a stringent penalty to offences of this nature.

The punishment now affixed by law to the crime of placing obstructions upon railway tracks is madequate, considering the heinousness of the offence. The murder of a single individual will hardly compare in enormity with perilling hundreds of lives by so dastardly a deed. As the present penalty proves insufficient to prevent its perpetration, I recommend that this infraction of the law be placed by statute in the catalogue of the gravest felonies.

At a late period in the last session, an able and valuable report was received and transmitted to the Legislature from the Commissioners appointed to establish lines in Mystic River, Boston Harbor and Dorchester Bay. Their suggestion that an application be made to the General Government for the appointment of a scientific board, to report upon the condition of the harbor, and to present a comprehensive plan for its improvement, which may serve to direct and regulate future constructions, is deemed by our commercial community of great practical importance. The Federal authorities would, undoubtedly, comply with such a request, without expense to the State, as they have done with respect to the

harbors of Savannah, Charleston, Portland, and many other places. The judgment and advice of unprejudiced and skilful persons, familiar with the principles and practice of engineering in tidal rivers and harbors, would thus be secured in behalf of measures calculated to avert threatening dangers, and subserve the necessities of the harbor of our commercial emporium.

Gentlemen :—

Under the gratifying approval of my official course, indicated by the recent action of my fellow-citizens in returning me to this important post of service, it will be my pleasure, as it is my duty, to address myself to a faithful discharge of all its functions, to the best of my abilities and understanding. Such approbation is the only reward I desire, other than the sanction of my own conscience and judgment. By those guides, which, though not unerring, are the surest reliance of honest desire and pure intention, I shall be directed hereafter, as I have been heretofore.

To you, gentlemen, I would suggest, the magnitude of the interests intrusted to your guardianship, the evil of inconsiderate and unnecessary legislation, the indispensable necessity of economy in all branches of expenditure, and, above all, the duty of placing the reputation of our State, and the interests of her people, above all narrow questions of politics or partisanship. May a wise and comprehensive statesmanship control your decisions, an honorable patriotism constitute your paramount motive, and a wisdom be vouchsafed us from above, which shall enable us to promote the happiness and prosperity of our citizens, and enhance the honor of our Commonwealth.

M E S S A G E S .

To the President of the Senate :

I transmit, herewith, for the use of the Legislature, the Second Annual Reports of the Inspectors of State Almshouses at Bridgewater, Monson and Tewksbury.

HENRY J. GARDNER.

Council Chamber, January 7, 1856.

To the President of the Senate :

I transmit, herewith, a letter just received from the Hon. Albert H. Nelson, of Woburn, declining to accept the office of Attorney-General, to which he has been elected.

HENRY J. GARDNER.

Council Chamber, January 12, 1856.

To the President of the Senate :

I herewith transmit, for the use of the Legislature, the following Reports, which have been received by this department of the government, viz. :—

1. Report of the Trustees of the State Lunatic Hospital at Worcester.
2. Report of the Trustees of the State Lunatic Hospital at Taunton.
3. Report of the Inspectors of the State Hospital at Rainsford Island.
4. Fourth Annual Report of the Commissioners on the Back Bay.

HENRY J. GARDNER.

Council Chamber, January 16, 1856.

To the Speaker of the House of Representatives :

I herewith transmit, for the use of the Legislature, the following Reports, which have been received by this department of the government, viz. :—

1. Reports of the Inspectors, Warden, Chaplain and Physician of the State Prison.
2. Report of the Land Agent.
3. Report of the Agent of Charles River and Warren Bridges.
4. Report of the Superintendent of Alien Passengers.
5. Report of the Commissioners appointed under Act of 1855, for the erection of a third hospital for the insane.

HENRY J. GARDNER.

Council Chamber, January 16, 1856.

To the Speaker of the House of Representatives :

I transmit, herewith, the Report of the Commissioners of Pilots, appointed under chapter 421, of the Acts of 1855.

HENRY J. GARDNER.

Council Chamber, January 19, 1856.

To the Speaker of the House of Representatives :

I transmit, herewith, for the use of the Legislature, the Ninth Annual Report of the Trustees of the State Reform School, at Westborough, with the accompanying Reports of the officers of the Institution.

HENRY J. GARDNER.

Council Chamber, January 19, 1856.

To the Speaker of the House of Representatives :

I herewith transmit, to the House of Representatives, for the use of the Legislature, the following communication from the Adjutant-General.

HENRY J. GARDNER.

Council Chamber, January 19, 1856.

To the Speaker of the House of Representatives :

I transmit, herewith, for the consideration of the Legislature, the following communication from the Governor of Vermont, with the accompanying Resolutions relating to the Territory of Kansas.

HENRY J. GARDNER.

Council Chamber, January 31, 1856.

To the Speaker of the House of Representatives :

I herewith transmit, for the use of the Legislature, the Report of the Commissioners, appointed under the 52d chapter of the Resolves of 1854, for the establishment of a State Reform School for Girls.

HENRY J. GARDNER.

Council Chamber, January 31, 1856.

To the President of the Senate :

I transmit, herewith, for the use of the Legislature, the Report of the Treasurer of the Marshpee and Herring Pond Indians.

HENRY J. GARDNER.

Council Chamber, February 6, 1856.

To the Speaker of the House of Representatives :

I transmit, herewith, for the use of the Legislature, the Annual Report of the Commissioners of Alien Passengers.

HENRY J. GARDNER.

Council Chamber, February 7, 1856.

To the President of the Senate :

I transmit, herewith, for the information of the Legislature, a communication from the Commissioner appointed under chapter 470, Acts of 1855.

HENRY J. GARDNER.

Council Chamber, February 8, 1856.

To the Speaker of the House of Representatives :

I transmit, herewith, for the use of the Legislature, the Report of the Commissioners appointed under chapter 15, of the Resolves of 1855, to establish a boundary line between Gay Head and the town of Chilmark.

HENRY J. GARDNER.

Council Chamber, February 12, 1856.

To the Speaker of the House of Representatives :

I transmit, herewith, for the use of the Legislature, the Report of the Commissioners appointed under chapter 69, of the Resolves of 1855, to examine the title to certain lands in the town of Tisbury.

HENRY J. GARDNER.

Council Chamber, February 12, 1856.

To the Speaker of the House of Representatives :

In compliance with the request of the House of Representatives, contained in an Order of that branch, passed on the twenty-fifth instant, which has been duly communicated to me, I transmit, herewith, the only "communication I have received in my official capacity, relative to the affairs of Kansas."

It consists of a brief letter of the twenty-first of January, which, from such inquiries as I have been able to make, I believe to be authentic, purporting to be signed by J. H. Lane, C. Robinson and G. W. Deitzler, representing the existing condition of things in that Territory at the date of the letter, and the apprehension entertained by its inhabitants of impending outrages from the anticipated incursions of evil disposed persons from the adjoining State of Missouri.

While this document has no such official character as, in my judgment, to warrant the Governor in obtruding it upon the Legislature, or making it the subject of an executive communication, I cheerfully avail myself of the Order of the honorable House of Representatives, to transmit it to that body, for such action as the Legislature may deem it proper to take in respect to it.

HENRY J. GARDNER.

Council Chamber, February 26, 1856.

To the Speaker of the House of Representatives :

I transmit, herewith, for the information of the Legislature, a communication from Colonel Thayer, of the United States Corps of Engineers, relative to a cession of jurisdiction on the part of the State to the General Government, of certain lands situated in the city of New Bedford, on which it is contemplated to erect fortifications, for the defence of that city.

HENRY J. GARDNER.

Council Chamber, March 12, 1856.

To the President of the Senate :

I herewith transmit, for the use of the Legislature, the Resolutions of the General Assembly of the State of Rhode Island, on the subject of French Spoliations, anterior to the year eighteen hundred.

HENRY J. GARDNER.

Council Chamber, March 12, 1856.

To the President of the Senate :

I transmit, herewith, a communication from the Governor of New Jersey, covering certain Resolutions of the Legislature of that State, relative to the construction of a Breakwater at Cape May.

HENRY J. GARDNER.

Council Chamber, March 24, 1856.

To the President of the Senate :

I transmit, herewith, for the use of the Legislature, the Annual Report of the Trustees of the Perkins Institution and Massachusetts Asylum for the Blind.

HENRY J. GARDNER.

Council Chamber, April 2, 1856.

To the Speaker of the House of Representatives :

I transmit, herewith, for the use of the Legislature, the Final Report of the Commissioners upon Charles River and Warren Bridges.

HENRY J. GARDNER.

Council Chamber, April 12, 1856.

To the Speaker of the House of Representatives :

I transmit, herewith, for the use of the Legislature, the Annual Report of the Trustees of the Massachusetts School for Idiotic and Feeble-Minded Youth, together with the Reports of the Superintendent and Treasurer.

HENRY J. GARDNER.

Council Chamber, April 12, 1856.

To the Speaker of the House of Representatives :

I herewith transmit, for the use of the Legislature, certain Resolutions of the Legislature of the State of Ohio, relative to Kansas, which Resolutions were received from the Governor of that State.

HENRY J. GARDNER.

Council Chamber, May 6, 1856.

To the Speaker of the House of Representatives :

I return herewith, to the House of Representatives, in which branch of the Legislature it originated, a Bill, entitled "An Act to change the name of the Female Medical Education Society, to New England Female Medical College, and to reorganize the same."

It is not necessary to make any reference to the general designs and purposes of the Bill, as my objections are limited to that feature of it which contemplates making certain State officers, *ex-officiis*, trustees of the Institution. Although this provision may not perhaps be deemed unconstitutional in the strict sense of the term, yet if the principle involved in it becomes the policy of Massachusetts, it is obvious that onerous and extra constitutional duties will be placed upon a portion of the paid officers of the Commonwealth, which must necessarily deprive the State, to a considerable extent, of time and labor which should properly be devoted to the performance of their respective duties.

This Bill provides that "the Lieutenant-Governor, the President of the Senate, the Speaker of the House of Representatives, the Secretary of the Commonwealth, and the Secretary of the Board of Education, for the time being, shall be, *ex-officiis*, members" of the Board of Trustees, elected from time to time,—and in conjunction with them, "to make by-laws, to appoint professors, who shall constitute a medical faculty, and to confer the usual degree of Doctor of Medicine."

It is a noteworthy fact that the original petition which accompanies the Bill did not ask that any State officer should be, *ex-officio*, a member of the Board of Trustees, and that a Bill was reported, which passed the Senate, not containing this objectionable feature, but that in the House a recommitment took place, and this provision was incorporated.

In addition to the objection to this Bill already intimated, it is apparent that it gives the institution a reputation and influence, from its official connection with the State, that all other incorporated bodies for kindred or analogous purposes will much desire and be not slow to seek. Either this corporation will have special favor shown it, or a multitude of others must claim their share of the attention of our State officers, to the infringement on time belonging to their regular duties.

Moreover, the interest of this corporation would become to some extent, by the passage of this Act, identified with the Commonwealth, and an anomalous and hitherto unknown sanction given it, alike injurious to the dignity of the State and to the welfare of her people. For notwithstanding this *quasi* endorsement of the State, it cannot be supposed that her officers can be familiarized by a professional training for the proper performance of duties appertaining to a board required to select professors and confer degrees.

For the reasons, then, that this unusual and objectionable privilege is granted, though not asked for at the outset by the petitioners,—that either it is a special privilege, given here and refused elsewhere, or if hereafter extended to similar claimants, it must occupy the time of the officers of the Commonwealth, required for the performance of other duties,—that those officers cannot often be fitted by that purely professional training this trust peculiarly demands,—and that it compromises the dignity of the Commonwealth in making her in any way or to any extent a copartner in private enterprises of this nature,—I withhold my approval from the Bill.

HENRY J. GARDNER.

Council Chamber, May 8, 1856.

To the Speaker of the House of Representatives :

I herewith transmit, to the House of Representatives, for the use of the Legislature, a communication from the Secretary of State, and certain Resolves recently passed by the Legislature of the State of Maine, relative to Kansas.

HENRY J. GARDNER.

Council Chamber, May 17, 1856.

To the Speaker of the House of Representatives :

I transmit, herewith, for the use of the Legislature, certain Resolutions passed by the Legislature of New Hampshire, relative to Kansas, which Resolutions were received from the Governor of that State.

HENRY J. GARDNER.

Council Chamber, May 21, 1856.

To the President of the Senate :

I transmit, herewith, Resolutions passed by our sister State of Connecticut, expressive of its utter reprobation of the recent "brutal and cowardly violence on the floor of the Senate Chamber," and of its determination to stand side by side with Massachusetts, now as heretofore, in the assertion and defence of freedom of thought and speech.

I need not testify to the gratification such sentiments, from the intelligent and patriotic State of Connecticut, must convey to the judgment and feelings of all our people.

HENRY J. GARDNER.

Council Chamber, May 30, 1856.

To the Speaker of the House of Representatives :

I transmit, herewith, for the use of the Legislature, certain Resolutions of the State of New Hampshire, relative to the passage, by the National Legislature, of a new Naturalization Law.

HENRY J. GARDNER.

Council Chamber, June 3, 1856.

To the Speaker of the House of Representatives :

One of the Senators in the Congress of the United States, from Massachusetts, having been struck down while at his post of duty, in a brutal, murderous and cowardly manner, and suffered severe if not dangerous wounds, it seems to me eminently proper that all expenses of his sickness should be assumed by the Commonwealth whose sovereignty he represents.

I therefore submit the consideration of this question to the Legislature, for such action as they may deem expedient.

HENRY J. GARDNER.

Council Chamber, June 4, 1856.

[NOTE.—This message was omitted from the volume of Acts and Resolves of 1855, by direction of the late Secretary of State; and this omission having been deemed improper, it is now inserted.]

To the Speaker of the House of Representatives :

I have received the Address of the two branches of the Legislature, requesting that Edward Greeley Loring may be removed from the office of Judge of Probate for the County of Suffolk.

In my Inaugural Address to the legislative branches of the government I used the following words: "I know no safer index in official action than a conscientious conviction of duty,—none more fluctuating than the attempt to satisfy temporary caprice. Principles are enduring; and if disregarded, sooner or later the verdict of condemnation will be recorded against those who are false to their requirements. Let us then be true to our country and our duty. Let the success of principle, not of party, be our desire—the benefit of the State, not of a faction, our aim."

I have endeavored to examine the question submitted to me in the light of these principles alone. I desire to do right for the sake of the right, forgetful of expediency, and disregarding consequences. I ask only that conscientious motives may be attributed to me in my actions, and that my constituents may believe that obedience to justice is my sole desire.

I shall not attempt so much to demonstrate the correctness of the result to which I have attained, as to narrate plainly and concisely the course by which my convictions have been formed.

The Address of the two houses was presented me on the third instant, in the following words: "The two branches of the Legislature, in General Court assembled, respectfully request that your Excellency would be pleased, by and with the advice and consent of the Council, to remove Edward Greeley Loring from the office of Judge of Probate for the County of Suffolk."

Three courses present themselves for my adoption ; first, to request the Legislature to favor me with the reasons for such removal ; secondly, to act as I deem my duty without communication to the Legislature ; and thirdly, to give my reasons for the course which my convictions shall lead me to adopt.

The original papers, now before me, demonstrate that in every instance on record, where Judges of this State have been removed by address, full reasons for removal have accompanied said addresses. Though anxious to have had the specific reasons assigned for the proposed removal, in order to avoid action on doubtful grounds, the Legislature having omitted to embody in the address the results of the investigation of its committee, carried on with facilities the executive department does not possess, rather than further prolong the session, I have concluded not to pursue the first course.

As to the second, if a legislature ask the executive to perform an act without specifying the reasons therefor, he may, without discourtesy, omit to assign the reasons which constrain him to decline acceding to their request. But the nobler, manlier course is to adopt the third method, and this I now proceed to do.

The question of acceding or declining to act in accordance with an address for such a removal is widely different from the constitutional power given the executive to sign or veto legislative enactments. In the latter case the Constitution limits the period that a bill shall be retained for consideration, and provides that a veto may be overruled by a two-thirds vote in both branches. It is wholly different in the case of a legislative address, no limit in time being fixed, and the action of the executive being final. Feeling deeply, then, the importance of a decision which must be a finality, I have still been impelled to hasten my reply, before the Legislature shall be prorogued, in order that further action may be had of a different nature should the two houses deem it advisable.

The power of removing a Judge by address is founded on the proviso to article 1st, chapter 3d of the Constitution, and is in the following words: "Provided, nevertheless, the governor, with consent of the council, may remove them upon address of both houses of the Legislature."

It is very important this passage be examined in the light of contemporaneous exposition to ascertain the intent of the framers of our Constitution. The Convention that

adopted it met in Cambridge, September 1, 1779. By the journal of that Convention it appears that on Saturday, November 7, it was voted, 78 to 25, that the Judges of the Supreme Judicial Court should hold their offices during good behavior; and on Wednesday, February 16, 1780, the same tenure was adopted for the other judicial officers. On the same day the proviso before quoted "being read, was largely debated, when the same was put and accepted."

I have in vain attempted to procure an outline of that debate, and cannot learn that it was ever printed; the papers of the day containing no abstract of it, and no memorandum in manuscript being known to exist. We are therefore compelled to infer the intention of the framers of this proviso from collateral and nearly contemporaneous evidence, and to apply to its interpretation the immutable principles of right and justice that were never new, and never will be old.

In the Address to the people of Massachusetts accompanying that Constitution, signed by James Bowdoin, as President, is the following passage: "You will readily conceive it to be necessary for your own safety, that your Judges should hold their offices during good behavior; for men who hold their places upon so precarious a tenure as annual or other frequent appointments, will never so assiduously apply themselves to study as will be necessary to the filling their places with dignity. Judges should at all times feel themselves independent and free." Such language indicates that the Convention intended that our Judges should hold their offices during good behavior, and not on "so precarious a tenure" as the will of the Legislature; and that it solemnly declared that their liability to removal, without reasons being given, without trial, and without an allegation of crime, would prove fatal to "the people's own safety," and the "independence and freedom" of the judiciary.

A convention of delegates from the County of Essex was held at Ipswich to consider the constitution formed two years previous to that Convention whose action we have just considered. In a very able address signed by Peter Coffin as chairman, and printed at Newburyport in 1778, on page 39, it is forcibly affirmed, "the same power," that is the executive, "which appoints the Judges ought not to have the power of removing them, even for misbehavior." "Whoever appoints the Judges, they ought not to be removable at pleasure. One of these two powers," (the executive and legislative,) "should appoint and the other remove." And

page 40, "neither will the executive body be the most proper judge when to remove. * * * * Let, therefore, the Judges be appointed by the executive body, let their salaries be independent, and let them hold their places during good behavior. Let their misbehavior be determined by the legislative body. Let one branch thereof impeach, and the other judge. Upon these principles the judicial body will be independent so long as they behave well, and a proper court is appointed to ascertain their mal-conduct."

All these circumstances tend to show that the clause of the Constitution under consideration is not to be construed as conferring a power of removal at the mere wish of the Legislature. If it can be used once, it can a thousand times; if to one judge, then to the whole bench; if now, every year. Such an interpretation would directly conflict with other provisions of the instrument.

If compared with the 29th article of the Bill of Rights, is it not a contradiction in terms to say that "it is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws and administration of justice," and then to provide that its interpreters and administrators may be changed every year with each succeeding political revolution? Is it not a futile declaration that "it is the right of every citizen to be tried by Judges as free, impartial and independent as the lot of humanity will admit," and then to add that they can be removed without reasons given, or crime alleged, if they will not surrender their freedom and abandon their independence at the behests of dominant parties?

If it be the meaning of this proviso that judicial officers may be removed without cause on address of the two houses, all sections of the Constitution referring to impeachment of Judges are superfluous. Why provide for impeachment and trial by the two branches, under the solemn forms prescribed, if an address from those two branches without confronting the culprit with his accusers, without even an alleged culprit, or any accusers, or any crime, may justify a judicial removal?

Is it not proper then to inquire if there is any interpretation which will make these seeming discrepancies harmonious, these indications of injustice unfounded, these apparent contradictions one homogeneous whole?

Such interpretation may be found by construing our Constitution as declaring that our Judges shall hold office during

good behavior, shall be removed by impeachment for crime, and by address for any dispensation of Providence that makes them, without criminality, incompetent to perform properly the duties of their office.

This has often been affirmed to be its true intent by our wisest statesmen. For instance, in the debates of the Convention of 1820, Mr. Pickman, of Salem, said, "it was proper to have a provision of a similar nature, to meet such cases as were not a proper subject of impeachment, such as incapacity from natural infirmities." Mr. James Savage, of Boston, said he hoped "we should have the advantage of both modes of removal from office, by impeachment and upon an address of the Legislature, so as to meet the moral disqualifications and the natural disqualifications for office."

Mr. Lemuel Shaw, our present chief justice said, "the general principle was that they should be independent of other persons during good behavior. What is meant by good behavior? The faithful discharge of the duties of their office. If not faithful, they were liable to trial by impeachment. But cases might arise when it might be desirable to remove a judge from office for other causes. He may become incapable of performing the duties of his office without fault. He may lose his reason or be otherwise incapacitated. It is the theory of our government that no man shall receive the emoluments of office without performing the services, though he is incapacitated by the Providence of God. It is necessary therefore that there should be provision for this case."

I well know that in the same debate, distinguished and able constitutional lawyers assumed that this proviso might authorize any or all judicial removals, in their arguments in favor of its modification; and that in consequence of those arguments that Convention proposed its amendment. But the fact that this alteration was rejected by the popular vote, may be deemed a pregnant indication that the people of our State did not believe that so unlimited a power of removal was intended by that proviso, or that it would ever be so construed by the Legislature.

I am fully sensible that the letter of the proviso, without reference to the context, seems to authorize the removal of any and all our judges by the executive, with the consent of the council, on an address of the Legislature. But I am constrained to believe that, judging by the rule that any instrument must be taken as a whole, and all its provisions be scanned in the light of all its other provisions, this proviso was intended by its framers to apply only to those cases

where a judge is incapacitated by the Providence of God, and having committed no crime cannot be reached by impeachment.

This power has been exercised but twice in Massachusetts. First, in the case of Paul Dudley Sargent and William Vinall, Justices of the Court of Common Pleas in the County of Hancock, who, the address states "have been duly convicted before the Supreme Judicial Court holden within and for the said County of Hancock, of the crime of wilful and corrupt extortion in their offices of Justices of the Court of Sessions, by means of which conviction the confidence of the people must be in a great degree diminished in the said Sargent and Vinall, and the honor and dignity of the government require that men against whom such charges have been substantiated should not be permitted to exercise offices of such high trust and importance."

It appears from the records of the council that these persons both tendered their resignations after the Legislature had voted the address and before executive action was had thereon, which, however, were not accepted, but they were removed.

If the construction of the Constitution given by me is correct, it was improper to remove these persons by address. They should have been brought to trial on impeachment, under the other provision of the Constitution, which refers to the commission of crime. And I find that John Quincy Adams, then a member of the senate, sustains this view, in a solemn protest which he caused to be entered on the journal, March 4th, 1803, in the following words: "The subscriber requests that the following reasons for his dissent from the vote of the senate to accept the report of the committee for addressing his excellency the governor to remove Paul Dudley Sargent and William Vinall from the offices of Justices of the Court of Sessions and of Common Pleas for the Counties of Hancock and Washington, may be entered upon the journals of the senate.

"First. Because the grounds alleged in the said address for the removal are for official misdemeanors; and the subscriber conceives it to be the intention of the Constitution that no judicial officer should be removed from office by the mode of an address of the two houses, on the ground of offences for the trial of which the Constitution has expressly provided the mode of impeachment.

"Secondly. Because he considers the independence of the judiciary as materially affected by a mode of proceeding which in its effects must make the tenure of all judicial

offices dependent upon the verdict of a jury in any one county of the Commonwealth.

“Thirdly. Because the decision of the senate in this case, affecting in the highest degree the rights, the character and reputation of two individual citizens of this Commonwealth, ought not to have been taken without giving them an opportunity to be heard in their own defence.”

The other case of removal of a judge by address was that of Theophilus Bradbury of the Supreme Judicial Court. The address was voted June 21st of the same year, 1803, and declares “they find that by a stroke of the palsy on the 13th of February, A. D. 1802, the said Judge Bradbury has been rendered unable to perform any duties of his office since that time; that from the nature of the attack there is no reasonable ground to hope that he will ever be restored to such health as will enable him to perform the duties of his office, and therefore that his longer continuance therein is likely to embarrass the judiciary of this Commonwealth.” Judge Bradbury being unable to appear in person when summoned before the executive, after being heard by counsel, was removed.

This case came clearly within what I think is the intent of the Constitution, and it is to be remarked that John Quincy Adams, though still a member of the senate, did not protest against this action, as he did in the previous case, thus showing he deemed it within the scope of constitutional power.

In recapitulating this branch of the subject, I state, that though the tenor of the language of the Constitution seems to authorize this power in every case and without reasons given, I am nevertheless impelled to believe that such is not its true interpretation, from a comparison of the different clauses of that instrument, from the statement of the Address that accompanied it, from contemporaneous evidence, and from the uniform acquiescence of the State government, with one exception, and that exception having recorded against it the protest of no less a man than John Quincy Adams.

But granting for the purpose of further consideration that the intention of the framers of our Constitution was to authorize, for any cause or for no cause, the removal of any, or all, of our judges by address of the Legislature to the governor, with the advice and consent of the executive council, I now proceed to examine in that light the present case.

Either this clause authorizes removal only for an act of

Providence, there being no guilt as ground for impeachment, or it authorizes it at any or all times, without limitation, for cause or without cause. If this latter view is correct, and if such unlimited power is clearly given, the justice of using that power in the case of Judge Loring is the only question to be considered.

It is not alleged that Judge Loring has committed any crime against the laws of the United States or of Massachusetts. It is not alleged that he is rendered unfit for the performance of the duties of his office by insanity, physical incapacity, or any other visitation of Providence. This case then is the first during three-quarters of a century where it has been proposed to use this alleged constitutional power. This is to be a precedent by which our judicial officers are to be placed in the same category with postmasters under the General, and sheriffs under the State government, to be removed with every change of the ruling party. Judge Story said in the Convention of 1820, speaking of the very passage under consideration, "the first instance of removal would establish a practice which would never be departed from, of shifting the whole court with every change of the party in power." That which most degrades modern politics, which most corrupts public morals, and prevents the best men from consenting to take offices of emolument, is the custom that long and constant precedent hardly palliates, but which has grown now to become almost a necessity, the removal of honest and faithful public officers to make room for the friends and supporters of the victorious party. There is no official action that so disgusts a high-minded man as this now necessary practice of removal. I would not be the first to introduce it even in respect to the most unimportant offices. When then I am solicited to perform an act which may be construed as inaugurating this custom, for a precedent during all time, as regards the judiciary, that body concerning whom the Bill of Rights declares, "that it is essential to the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of laws and administration of justice," and that "it is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit," is it strange that I recoil from the task with distrust and alarm?

The next reason why I hesitate to remove Judge Loring, assuming the power so to do to be clear and positive, is that no crime is alleged against him, in office or out, and no intimation is given that he has not satisfactorily and faithfully

performed his duties as Judge of Probate. The 12th article of the Bill of Rights declares that "no subject shall be held to answer for any crimes or offence until the same is fully and plainly substantiated, and formally described to him." In the case of address the Legislature acts as a public prosecutor or grand jury, to frame the indictment; and an indictment without an allegation of crime would be quashed at once by the court. The executive acts as the court in this case, and certainly should not condemn without some specification of criminality.

But it is alleged there was that action in the case of Judge Loring which, without being an overt crime, renders him so obnoxious and objectionable as to make his removal desirable. Still, that removal should take place in a way unquestionably constitutional; in such a manner that while the obnoxious individual is removed from his public post, no precedent is established pregnant with evil to those who may come after him, and so that punishment shall follow only a plain violation of law.

Such a course is open for the Legislature to adopt. In both branches an attempt was made to render the holding of the office of Judge of Probate incompatible with that of the Commissionership under which Judge Loring's action was deemed obnoxious and objectionable.

To the allegation that Judge Loring has shocked the popular sentiment of Massachusetts, it may be pertinent to ask what the duty of judges is. Are they to expound the laws as made by the law-making power; or are they to construe them in accordance with popular sentiment? When the time arrives that a judge so violates his oath of office as to shape his decisions according to the fluctuations of popular feeling, we become a government, not of laws, but of men.

Supposing, as is alleged, that according to the ordinary balancing of conflicting testimony, the decision of Judge Loring was erroneous; no one asserts or believes that he wilfully adjudicated wrongfully and corruptly. The error, if error it be considered, was a mistake. Is a judge then to be removed from one office, because in another capacity he made an erroneous decision? Is a judge to be removed from office, even if in the execution of that office he gives a mistaken judgment? Such an impracticable and dangerous policy would lead to a daily removal among judicial officers of our inferior courts, so often are their decisions overruled by higher tribunals.

As to the allegation that the conduct of Judge Loring in this trial was harsh, unfeeling, and not characterized by the

humanity which the maxims of our jurisprudence throw around a prisoner, and that he did not give him the benefit of the doubt which the theory of our law, as old as that law itself, grants every person arraigned, there is conflicting testimony.

The senior counsel for Burns, perhaps as impartial a witness as the nature of the case permits, testifies that he wrote in his private journal during the trial,—“The conduct of Judge Loring has been considerate and humane,” and his present statement confirms his contemporaneous declaration. In such a conflict of testimony let us grant Judge Loring the benefit of that doubt which he is accused of having withheld from the individual arraigned before his tribunal, lest we ourselves do violence to the same great and sacred principle which it is alleged he lost sight of in the exercise of his judicial function.

As to the objection that Judge Loring did not act up to the convictions of the people of Massachusetts concerning the constitutionality of the law he was led to enforce, regard must be had to the constitution of the human mind, and the historical succession and position of events touching this enactment. Bearing in mind that the law of 1793 was repealed by implication by the act of 1850—that accordingly the Massachusetts statute of 1843 became inoperative—that repeated attempts to re-enact it had failed in successive legislatures—that the highest judicial tribunals, National and State, and the large majority of the jurists and statesmen of the Republic had pronounced the act constitutional—that a great political revolution had but recently swept the country, openly acknowledging it as a finality—that from commercial and other influences the county in which he exercised his judicial functions, and the people with whom he came in more immediate contact were imbued with similar views—that the influences of the profession to which he was educated, and to which he had devoted the greater part of the ordinary life of man, naturally and universally develop a regard, and even reverence for existing laws and established institutions; bearing in mind also that in the fervid excitement and unfolding of American ideas, the changes of popular sentiment that with such facility and rapidity embody themselves in statutes and laws through the machinery of our elective bodies of legislation, must, and do frequently, outrun the convictions of many of our citizens, it would seem to be going too far to hold in all cases the human mind amenable whenever it fails to come up to the impressions and sentiments of the day.

If we are so to hold, are we not digging a pitfall into which the most salutary enactments passed by the Legislature this winter may at some future time be hurled with all who cling to their constitutionality and expediency? It can hardly be denied that such is a fair and just illustration of the tendency of this policy, for it must be remembered that but five years ago the votes and voice of Massachusetts, in both houses of Congress, were given to the passage of the very statute under which Judge Loring acted. Would it be more strange if, within a few years, alien hands should control our State government, and bring this precedent for removing those from judicial office, who, in obedience to a law which has but just now received your sanction, should refuse to aid in naturalizing a foreigner in the courts of Massachusetts?

For these reasons, maturely considered, but hastily written, and many of which are merely glanced at without being fully developed, I am constrained to respectfully decline acceding to the address of the two branches of the Legislature for the removal of Edward Greeley Loring from the office of Judge of Probate for the County of Suffolk.

HENRY J. GARDNER.

Council Chamber, May 10, 1855.

A CONSTITUTION

OR

FORM OF GOVERNMENT

FOR THE

Commonwealth of Massachusetts.

PREAMBLE.

THE end of the institution, maintenance and administration of government, is to secure the existence of the body politic: to protect it: and to furnish the individuals who compose it, with the power of enjoying, in safety and tranquillity, their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

Objects of government.

The body politic is formed by a voluntary association of individuals; it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security in them.

Body politic, how formed. Its nature.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of his providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new

constitution of civil government for ourselves and posterity; and devoutly imploring his direction in so interesting a design, do agree upon, ordain and establish, the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION of the COMMONWEALTH OF MASSACHUSETTS.

PART THE FIRST.

A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts.

Equality and natural rights of all men.

ART. I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

Right and duty of public religious worship.

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

Protection therein.

See amendments, Art. XI.

III. As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of GOD, and of public instructions in piety, religion and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of GOD, and for the support and maintenance of public Protestant teachers of piety, religion

Legislature empowered to compel provision for public worship;

and morality, in all cases where such provision shall not be made voluntarily.

And the people of this Commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

and to enjoin attendance thereon. See amendments, Art. XI

Provided notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

Exclusive right of electing religious teachers secured.

And all moneys, paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

Option as to whom parochial taxes may be paid, unless, &c.

See amendments. Art. XI.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the Commonwealth, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another shall ever be established by law.

All denominations equally protected.

Subordination of one sect to another prohibited.

IV. The people of this Commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent State; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled.

Right of self-government secured.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

Accountability of all officers, &c.

VI. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

Services rendered to the public being the only title to peculiar privileges, hereditary offices are absurd and unnatural.

Objects of government; right of people to institute and change it.

VII. Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it.

Right of people to secure rotation in office.

VIII. In order to prevent those, who are vested with authority, from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

All, having the qualifications prescribed, equally eligible to office.

IX. All elections ought to be free; and all the inhabitants of this Commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

Right of protection and duty of contribution correlative.

X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual, can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this Commonwealth are not controllable by any other laws, than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

Taxation founded on consent.

Private property not to be taken for public uses without, &c.

Remedies, by recourse to the law, to be free, complete, and prompt

XI. Every subject of the Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws.

Prosecutions regulated.

XII. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself: and every subject shall have a right to produce all proofs that may be favorable to

him: to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury. Right to trial by jury, in criminal cases, except, &c.

XIII. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen. Crimes to be proved in the vicinity.

XIV. Every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases, and with the formalities, prescribed by the laws. Right of search and seizure regulated.

XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it. Right to trial by jury sacred, except, &c.

XVI. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this Commonwealth. Liberty of the press.

XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it. Right to keep and bear arms. Standing armies dangerous. Military power subordinate to civil.

XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people Moral qualifications for office.

- Moral obligations of lawgivers and magistrates. ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the Commonwealth.
- Right of people to instruct representatives and petition legislature. XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.
- Power to suspend the laws or their execution. XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.
- Freedom of debate, &c., and reason thereof. XXI. The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.
- Frequent sessions, and objects thereof. XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new laws, as the common good may require.
- Taxation founded on consent. XXIII. No subsidy, charge, tax, impost, or duties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.
- Ex post facto laws prohibited. XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.
- Legislature not to convict of treason, &c. XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.
- Excessive bail or fines, and cruel punishments, prohibited. XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.
- No soldier to be quartered in any house, unless, &c. XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.
- Citizens exempt from law-martial, unless, &c. XXVIII. No person can in any case be subjected to law-martial, or to any penalties or pains, by virtue of that

law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well, and that they should have honorable salaries ascertained and established by standing laws.

Judges of supreme judicial court

Tenure of their office.

Salaries.

XXX. In the government of this Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws, and not of men.

Separation of executive, judicial, and legislative departments.

PART THE SECOND.

The Frame of Government.

THE people, inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body politic or state, by the name of THE COMMONWEALTH OF MASSACHUSETTS.

CHAPTER I.

THE LEGISLATIVE POWER.

SECTION I.

The General Court.

ART. I. The department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other.

Legislative department.

See amendments,
Art. X.

The legislative body shall assemble every year, on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May: and shall be styled, THE GENERAL COURT OF MASSACHUSETTS.

Governor's veto.

II. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revision; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichever the same shall have originated, who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve: but if, after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law: but in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the Commonwealth.

Bill may be passed by two-thirds of each house, notwithstanding.

See amendments,
Art. I.

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law.

General court may constitute judicatories, courts of record, &c.

III. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the Commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes and things, whatsoever, arising or happening within the Commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same; whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon: to which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

Courts, &c., may administer oaths.

IV. And further, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain and establish, all manner of wholesome and reasonable orders, laws, statutes and ordinances, directions and instructions, either with penalties or without: so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this Commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling, all civil officers within the said Commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for: and to set forth the several duties, powers and limits, of the several civil and military officers of this Commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said Commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this Commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the said Commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

General court may enact laws, &c..

not repugnant to the constitution;

may provide for the election or appointment of officers:

prescribe their duties:

impose taxes:

duties and excises:

to be disposed of for defence, protection, &c.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practiced, in order that such assessments may be made with equality, there shall be a valuation of estates within the Commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order.

Valuation of estates once in ten years, at least, while, &c.

CHAPTER I.

SECTION II.

Senate.

Senate, number of, and by whom elected. See amendments, Arts. XIII. and XVI.

ART. I. There shall be annually elected, by the freeholders and other inhabitants of this Commonwealth, qualified as in this constitution is provided, forty persons to be councillors and senators, for the year ensuing their election; to be chosen by the inhabitants of the districts, into which the Commonwealth may from time to time be divided by the general court for that purpose: and the general court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known, to the inhabitants of the Commonwealth, the limits of each district, and the number of councillors and senators to be chosen therein: provided, that the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six senators.

Counties to be districts, until, &c. See amendments, Art. XIII.

And the several counties in this Commonwealth shall, until the general court shall determine it necessary to alter the said districts, be districts for the choice of councillors and senators, (except that the counties of Dukes county and Nantucket shall form one district for that purpose,) and shall elect the following number for councillors and senators, viz. :—

Suffolk,	six.	York,	two.
Essex,	six.	Dukes Co. and Nantucket, .	one.
Middlesex,	five.	Worcester,	five.
Hampshire,	four.	Cumberland,	one.
Plymouth,	three.	Lincoln,	one.
Barnstable,	one.	Berkshire,	two.
Bristol,	three.		

Manner and time of choosing senators and councillors.

See amendments, Arts. II., X., XIV. and XV.

II. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz. : there shall be a meeting on the first Monday in April, annually, forever, of the inhabitants of each town in the several counties of this Commonwealth, to be called by the selectmen, and warned in due course of law, at least seven days before the first Monday in April, for the purpose of electing persons to be senators and councillors; and at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate, within the Com-

See amendments, Art. III.

monwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the senators for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word "inhabitant," in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this State, in that town, district, or plantation, where he dwelleth, or hath his home.

Word "inhabitant" defined.

The selectmen of the several towns shall preside at such meetings impartially, and shall receive the votes of all the inhabitants of such towns, present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the Commonwealth, for the time being, with a superscription expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before the last Wednesday in May, annually; or it shall be delivered into the secretary's office seventeen days at least before the said last Wednesday in May: and the sheriff of each county shall deliver all such certificates, by him received, into the secretary's office, seventeen days before the said last Wednesday in May.

Selectmen to preside at town meetings.

Return of votes.

See amendments, Arts. II. and X.

And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for councillors and senators, in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held, annually, on the same first Monday in April, at such place in the plantations, respectively, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns, by this constitution. And all other persons living in places unincorporated, (qualified as aforesaid,) who shall be assessed to the support of government, by the assessors of an adjacent town, shall have the privilege of giving in their votes for councillors and senators, in

Inhabitants of unincorporated plantations, who pay state taxes, may vote.

Plantation meetings.

See amendments, Art. X.

Assessors to notify, &c.

the town where they shall be assessed, and be notified of the place of meeting, by the selectmen of the town where they shall be assessed, for that purpose, accordingly.

Governor and council to examine and count votes, and issue summonses.

See amendments, Art. X.

III. And that there may be a due convention of senators on the last Wednesday in May, annually, the governor, with five of the council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day, he shall issue his summonses to such persons as shall appear to be chosen by a majority of voters, to attend on that day, and take their seats accordingly: provided, nevertheless, that for the first year, the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall, in like manner, issue his summonses to the persons so elected, that they may take their seats as aforesaid.

Senate to be final judge of elections, &c., of its own members.

See amendments, Art. X.

IV. The senate shall be the final judge of the elections, returns, and qualifications of their own members, as pointed out in the constitution; and shall, on the said last Wednesday in May, annually, determine and declare who are elected by each district, to be senators, by a majority of votes: and in case there shall not appear to be the full number of senators returned, elected by a majority of votes, for any district, the deficiency shall be supplied in the following manner, viz.: The members of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these, shall elect by ballot a number of senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled up in every district of the Commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the State, or otherwise, shall be supplied as soon as may be after such vacancies shall happen.

Qualifications of a senator. See amendments, Art. XIII.

V. Provided, nevertheless, that no person shall be capable of being elected as a senator, who is not seized in his own right of a freehold, within this Commonwealth, of the value of three hundred pounds at least, or possessed of personal estate of the value of six hundred pounds at least, or of both to the amount of the same sum, and who has not been an inhabitant of this Commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district for which he shall be chosen.

VI. The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time. Senate not to adjourn more than two days.

VII. The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings. Shall choose its officers, and establish its rules.

VIII. The senate shall be a court, with full authority, to hear and determine all impeachments made by the house of representatives, against any officer or officers of the Commonwealth, for misconduct and mal-administration in their offices: but, previous to the trial of every impeachment, the members of the senate shall, respectively, be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office, and disqualification to hold or enjoy any place of honor, trust, or profit, under this Commonwealth: but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment and punishment, according to the laws of the land. Shall try all impeachments.

IX. Not less than sixteen members of the senate shall constitute a quorum for doing business. Oath.

Limitation of sentence.

Quorum.

CHAPTER I.

SECTION III.

House of Representatives.

ART. I. There shall be, in the legislature of this Commonwealth, a representation of the people, annually elected, and founded upon the principle of equality. Representation of the people.

II. And in order to provide for a representation of the citizens of this Commonwealth, founded upon the principle of equality, every corporate town, containing one hundred and fifty ratable polls, may elect one representative; every corporate town, containing three hundred and seventy-five ratable polls, may elect two representatives; every corporate town, containing six hundred ratable polls, may elect three representatives; and proceeding in that manner, making two hundred and twenty-five ratable polls the mean increasing number for every additional representative. Representatives, by whom chosen. See amendments, Arts. XII. and XIII.

Provided, nevertheless, that each town now incorporated, not having one hundred and fifty ratable polls, may elect one representative; but no place shall hereafter be incorporated with the privilege of electing a representative, unless there are within the same one hundred and fifty ratable polls. Proviso as to towns having less than 150 ratable polls.

Towns liable to fine in case, &c.

And the house of representatives shall have power, from time to time, to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

Expense of travelling to and from the general court, how paid.

The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave.

Qualifications of a representative. See amendments, Arts. XIII. and XIV.

III. Every member of the house of representatives shall be chosen by written votes; and, for one year at least next preceding his election, shall have been an inhabitant of, and have been seized in his own right of, a freehold of the value of one hundred pounds, within the town he shall be chosen to represent, or any ratable estate to the value of two hundred pounds; and he shall cease to represent the said town, immediately on his ceasing to be qualified as aforesaid.

Qualifications of a voter.

IV. Every male person, being twenty-one years of age, and resident in any particular town in this Commonwealth, for the space of one year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town.

See amendments, Art. III.

Representatives, when chosen. See amendments, Arts. X. and XV.

V. The members of the house of representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.

House alone can impeach.

VI. The house of representatives shall be the grand inquest of this Commonwealth; and all impeachments made by them shall be heard and tried by the senate.

House to originate all money bills.

VII. All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

Not to adjourn more than two days.

VIII. The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

Quorum.

IX. Not less than sixty members of the house of representatives shall constitute a quorum for doing business.

House to judge of returns, &c., of its own members;

X. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker, appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment, every person, not a member, who shall be guilty of disrespect to the house, by

to choose its officers and establish its rules, &c.

May punish for certain offences.

any disorderly or contemptuous behavior in its presence ; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house ; or who shall assault any of them therefor ; or who shall assault, or arrest, any witness, or other person, ordered to attend the house, in his way in going, or returning ; or who shall rescue any person arrested by the order of the house.

And no member of the house of representatives shall be arrested, or held to bail on mean process, during his going unto, returning from, or his attending, the general assembly.

Privileges of members.

XI. The senate shall have the same powers in the like cases ; and the governor and council shall have the same authority to punish in like cases : provided, that no imprisonment, on the warrant or order of the governor, council, senate, or house of representatives, for either of the above described offences, be for a term exceeding thirty days.

Governor and council may punish.

General limitation.

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may, respectively, think best.

Trial may be by committee, or otherwise.

CHAPTER II.

EXECUTIVE POWER.

SECTION I.

Governor.

ART. I. There shall be a supreme executive magistrate, who shall be styled—THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS ; and whose title shall be—HIS EXCELLENCY.

Governor.

His title.

II. The governor shall be chosen annually ; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this Commonwealth for seven years next preceding ; and unless he shall, at the same time, be seized, in his own right, of a freehold, within the Commonwealth, of the value of one thousand pounds ; and unless he shall declare himself to be of the Christian religion.

To be chosen annually. Qualifications.

See amendments, Art. VII.

By whom chosen,
if he have a ma-
jority of votes.
See amendments,
Arts. II., X., XIV.
and XV.

III. Those persons who shall be qualified to vote for senators and representatives, within the several towns of this Commonwealth, shall, at a meeting to be called for that purpose, on the first Monday of April, annually, give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the last Wednesday in May; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the said last Wednesday in May; or the selectmen may cause returns of the same to be made, to the office of the secretary of the Commonwealth, seventeen days, at least, before the said day; and the secretary shall lay the same before the senate and the house of representatives, on the last Wednesday in May, to be by them examined; and in case of an election by a majority of all the votes returned, the choice shall be by them declared and published; but if no person shall have a majority of votes, the house of representatives shall, by ballot, elect two out of four persons, who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which, the senate shall proceed, by ballot, to elect one, who shall be declared governor.

How chosen,
when no person
has a ma-
jority.

Power of govern-
or, and of govern-
or and council.

IV. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this Commonwealth for the time being; and the governor, with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the Commonwealth, agreeably to the constitution and the laws of the land.

Same subject.

V. The governor, with advice of council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same to any time the two houses shall desire; and to dissolve the same on the day next preceding the last Wednesday in May; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess; and to call it

See amendments,
Art. X.

together sooner than the time to which it may be adjourned or prorogued, if the welfare of the Commonwealth shall require the same; and in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other the most convenient place within the State.

And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May. See amendments, Art. X.

VI. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment, or prorogation, the governor, with advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require. Governor and council may adjourn the general court in cases, &c., but not exceeding ninety days.

VII. The governor of this Commonwealth, for the time being, shall be the commander-in-chief of the army and navy, and of all the military forces of the State, by sea and land; and shall have full power, by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy; and, for the special defence and safety of the Commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them, to encounter, repel, resist, expel and pursue, by force of arms, as well by sea as by land, within or without the limits of this Commonwealth, and also to kill, slay and destroy, if necessary, and conquer, by all fitting ways, enterprises and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment, or annoyance of this Commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this Commonwealth; and that the governor be intrusted with all these and other powers, incident to the offices of captain-general and commander-in-chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land, and not otherwise. Governor to be commander-in-chief.

Limitation.

Provided, that the said governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this Commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the State to which they cannot otherwise conveniently have access.

Governor and council may pardon offences, except, &c.

But not before conviction.

VIII. The power of pardoning offences, except such as persons may be convicted of before the senate, by an impeachment of the house, shall be in the governor, by and with the advice of council; but no charter of pardon, granted by the governor, with advice of the council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

All judicial officers, &c., how nominated and appointed. See amendments, Arts. XIV., XVII, and XIX.

IX. All judicial officers, the attorney-general, the solicitor-general, all sheriffs, coroners, and registers of probate, shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

Militia officers, how elected.

See amendments, Art. V.

X. The captains and subalterns of the militia shall be elected by the written votes of the train-band and alarm list of their respective companies, of twenty-one years of age and upwards; the field officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments; the brigadiers shall be elected, in like manner, by the field officers of their respective brigades; and such officers, so elected, shall be commissioned by the governor, who shall determine their rank.

How commissioned.

The legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the governor the officers elected.

Major-generals, how appointed and commissioned.

The major-generals shall be appointed by the senate and house of representatives, each having a negative upon the other; and be commissioned by the governor.

Vacancies, how filled, in case, &c.

And if the electors of brigadiers, field officers, captains or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the governor, with advice of council, shall appoint suitable persons to fill such offices.

Officers, duly commissioned, how removed.

And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address

of both houses to the governor, or by fair trial in court martial, pursuant to the laws of the Commonwealth for the time being.

See amendments, Art. IV.

The commanding officers of regiments shall appoint their adjutants and quarter-masters; the brigadiers their brigade-majors; and the major-generals their aids; and the governor shall appoint the adjutant-general.

Adjutants, &c., how appointed.

The governor, with advice of council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this Commonwealth shall appoint,—as also all officers of forts and garrisons.

The divisions of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this Commonwealth, until the same shall be altered in pursuance of some future law.

Organization of militia.

XI. No moneys shall be issued out of the treasury of this Commonwealth, and disposed of, (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the Commonwealth, and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

Money, how drawn from the treasury, except, &c.

XII. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this Commonwealth, and all commanding officers of forts and garrisons within the same, shall, once in every three months, officially and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care, respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbor or harbors, adjacent.

All public boards, &c., to make quarterly returns

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, despatches, and intelligences of a public nature, which shall be directed to them respectively.

Salary of governor.

XIII. As the public good requires that the governor should not be under the undue influence of any of the members of the general court, by a dependence on them for his support—that he should, in all cases, act with freedom for the benefit of the public—that he should not have his attention necessarily diverted from that object to his private concerns—and that he should maintain the dignity of the Commonwealth in the character of its chief magistrate—it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: and it shall be among the first acts of the general court, after the commencement of this constitution, to establish such salary by law accordingly.

Salaries of justices of supreme judicial court.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

Salaries to be enlarged, if insufficient.

And if it shall be found, that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

CHAPTER II.

SECTION II.

Lieutenant-Governor.

Lieutenant-governor; his title and qualifications.

ART. I. There shall be annually elected a lieutenant-governor of the Commonwealth of Massachusetts, whose title shall be—His HONOR; and who shall be qualified, in point of religion, property, and residence in the Commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; and if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no one person shall have a majority of the votes of the people to be governor.

See amendments, Arts. III., VI., X. and XV.

How chosen.

President of council.

Lieutenant-governor a member of, except, &c.

II. The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

III. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the Commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which, by this constitution, the governor is vested with, when personally present.

Lieutenant-governor to be acting governor, in case, &c.

CHAPTER II.

SECTION III.

Council, and the Manner of settling Elections by the Legislature.

ART. I. There shall be a council, for advising the governor in the executive part of the government, to consist of nine persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the land.

Council. See amendments, Art. XVI.

II. Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room; and in case there shall not be found, upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left, shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.

Number; from whom, and how chosen. See amendments, Arts. X., XIII. and XVI.

If senators become councillors their seats to be vacated.

III. The councillors, in the civil arrangements of the Commonwealth, shall have rank next after the lieutenant-governor.

Rank of councillors.

IV. Not more than two councillors shall be chosen out of any one district of this Commonwealth.

No district to have more than two.

V. The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for, at any time, by either house of the legislature; and any member of the council

Register of council.

may insert his opinion, contrary to the resolution of the majority.

Council to exercise the power of governor, in case, &c.

VI. Whenever the office of the governor and lieutenant-governor shall be vacant, by reason of death, absence, or otherwise, then the council, or the major part of them, shall, during such vacancy, have full power and authority, to do, and execute, all and every such acts, matters and things, as the governor or the lieutenant-governor might or could, by virtue of this constitution, do or execute, if they, or either of them, were personally present.

Elections may be adjourned, until, &c.

VII. And whereas the elections appointed to be made by this constitution, on the last Wednesday in May annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day, until the same shall be completed. And the order of elections shall be as follows: the vacancies in the senate, if any, shall first be filled up; the governor and lieutenant-governor shall then be elected, provided there should be no choice of them by the people; and afterwards the two houses shall proceed to the election of the council.

Order thereof.

CHAPTER II.

SECTION IV.

Secretary, Treasurer, Commissary, &c.

Secretary, &c.: by whom and how chosen. See amendments, Arts. IV. and XVII.

Treasurer ineligible for more than five successive years.

ART. I. The secretary, treasurer and receiver-general, and the commissary-general, notaries public, and naval officers, shall be chosen annually, by joint ballot of the senators and representatives, in one room. And, that the citizens of this Commonwealth may be assured, from time to time, that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer and receiver-general more than five years successively.

Secretary to keep records; to attend the governor and council, &c.

II. The records of the Commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable, and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

CHAPTER III.

JUDICIARY POWER.

ART. I. The tenure, that all commissioned officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature.

Tenure of all commissioned officers to be expressed. Judicial officers to hold office during good behavior, except, &c. But may be removed on address

II. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

Justices of supreme judicial court to give opinions when required.

III. In order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well being of the Commonwealth.

Justices of the peace; tenure of their office.

IV. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter, appoint such times and places; until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

Provisions for holding probate courts.

V. All causes of marriage, divorce and alimony, and all appeals from the judges of probate, shall be heard and determined by the governor and council, until the legislature shall, by law, make other provision.

Provisions for determining causes of marriage, divorce, &c.

CHAPTER IV.

DELEGATES TO CONGRESS.

THE delegates of this Commonwealth to the congress of the United States shall, some time in the month of June, annually, be elected by the joint ballot of the senate and

Delegates to congress.

house of representatives, assembled together in one room ; to serve in congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the governor, and the great seal of the Commonwealth ; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.

CHAPTER V.

THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE, &C.

SECTION I.

The University.

Harvard College.

ART. I. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences which qualified them for public employments, both in church and state ; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of GOD, the advantage of the Christian religion, and the great benefit of this, and the other United States of America,—it is declared, that the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have, or are entitled to have, hold, use, exercise and enjoy ; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers, and servants, respectively, forever.

Powers, privileges, &c., of the president and fellows, confirmed.

All gifts, grants, &c., confirmed.

II. And whereas there have been, at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college, by some other description, under several charters successively ; it is declared, that all the said gifts, grants, devices, legacies and conveyances, are hereby forever confirmed unto the president and fellows of

Harvard College, and to their successors, in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, deviser or devisors.

III. And whereas, by an act of the general court of the colony of Massachusetts Bay, passed in the year one thousand six hundred and forty-two, the governor and deputy-governor, for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in the said act described, constituted the overseers of Harvard College; and it being necessary, in this new constitution of government, to ascertain who shall be deemed successors to the said governor, deputy-governor, and magistrates; it is declared, that the governor, lieutenant-governor, council and senate of this Commonwealth, are, and shall be deemed, their successors; who, with the president of Harvard College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining, to the overseers of Harvard College: provided, that nothing herein shall be construed to prevent the legislature of this Commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the legislature of the late Province of the Massachusetts Bay.

Who shall be overseers.

Power of alteration reserved to the legislature.

CHAPTER V.

SECTION II.

The Encouragement of Literature, &c.

WISDOM and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools, and grammar schools

Duty of legislatures and magistrates in all future periods. See amendments, Art. XVIII.

in the towns; to encourage private societies, and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments among the people.

CHAPTER VI.

OATHS AND SUBSCRIPTIONS; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES; PECUNIARY QUALIFICATIONS; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISAL OF THE CONSTITUTION, &c.

ART. I. Any person chosen governor, lieutenant-governor, councillor, senator, or representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz.:

See amendments,
Art. VII.

“I, A. B., do declare, that I believe the Christian religion, and have a firm persuasion of its truth; and that I am seized and possessed, in my own right, of the property required by the constitution, as one qualification for the office or place to which I am elected.”

And the governor, lieutenant-governor, and councillors, shall make and subscribe the said declaration, in the presence of the two houses of assembly; and the senators and representatives, first elected under this constitution, before the president and five of the council of the former constitution, and forever afterwards, before the governor and council for the time being.

And every person, chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz.:

See amendments,
Art. VI.

“I, A. B., do truly and sincerely acknowledge, profess, testify and declare, that the Commonwealth of Massachu-

setts is, and of right ought to be, a free, sovereign, and independent State; and I do swear, that I will bear true faith and allegiance to the said Commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever; and that I do renounce and abjure all allegiance, subjection and obedience to the king, queen, or government of Great Britain, (as the case may be,) and every other foreign power whatsoever; and that no foreign prince, person, prelate, state, or potentate, hath, or ought to have, any jurisdiction, superiority, preëminence, authority, dispensing or other power, in any matter, civil, ecclesiastical or spiritual, within this Commonwealth; except the authority and power which is or may be vested by their constituents in the congress of the United States: and I do further testify and declare, that no man, or body of men, hath, or can have, any right to absolve or discharge me from the obligation of this oath, declaration, or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation and abjuration, heartily and truly, according to the common meaning and acceptance of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me, GOD."

"I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution, and the laws of the Commonwealth. So help me, GOD."

Provided always, that when any person, chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oaths, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words "*I do swear,*" "*and abjure,*" "*oath or,*" "*and abjuration,*" in the first oath; and in the second oath, the words, "*swear and,*" and in each of them the words "*So help me, GOD;*" subjoining instead thereof, "*This I do under the pains and penalties of perjury.*"

And the said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor, and councilors, before the president of the senate, in the presence of the two houses of assembly; and by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for

the time being ; and by the residue of the officers aforesaid, before such persons, and in such manner, as from time to time shall be prescribed by the legislature.

Plurality of offices prohibited to governor, &c., except, &c.

II. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this Commonwealth, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace through the State ; nor shall they hold any other place or office, or receive any pension or salary from any other State, or government, or power, whatever.

Same subject.

No person shall be capable of holding or exercising at the same time, within this State, more than one of the following offices, viz. : judge of probate—sheriff—register of probate—or register of deeds ; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the State at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person.

Incompatible offices.

See amendments, Art. VIII.

No person holding the office of judge of the supreme judicial court—secretary—attorney-general—solicitor-general—treasurer or receiver-general—judge of probate—commissary-general—president, professor, or instructor of Harvard College—sheriff—clerk of the house of representatives—register of probate—register of deeds—clerk of the supreme judicial court—clerk of the inferior court of common pleas—or officer of the customs, including in this description naval officers—shall at the same time have a seat in the senate or house of representatives ; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives ; and the place so vacated shall be filled up.

Same subject.

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in council ; or any councillor shall accept of either of those offices or places.

Bribery, &c., operates disqualification.

And no person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under the government of this Commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption, in obtaining an election or appointment.

Value of money ascertained.

III. In all cases, where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at six shillings and eight pence per ounce ; and it

Property qualifi-

shall be in the power of the legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the Commonwealth shall require.

Qualifications may be increased.

IV. All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the governor, and attested by the secretary or his deputy, and have the great seal of the Commonwealth affixed thereto.

Provisions respecting commissions.

V. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

Provisions respecting writs.

VI. All the laws, which have heretofore been adopted, used and approved, in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

Continuation of former laws, except, &c.

VII. The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this Commonwealth, in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

Benefit of habeas corpus secured, except, &c.

VIII. The enacting style, in making and passing all acts, statutes and laws, shall be—"Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same."

The enacting style.

IX. To the end there may be no failure of justice, or danger arise to the Commonwealth, from a change of the form of government, all officers, civil and military, holding commissions under the government and people of Massachusetts Bay, in New England, and all other officers of the said government and people, at the time this constitution shall take effect, shall have, hold, use, exercise and enjoy all the powers and authority to them granted or committed, until other persons shall be appointed in their stead; and all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies and powers, shall continue in full force, in the enjoyment and exercise of all their trusts, employments and authority, until the general court, and the

Officers of former government continued until, &c.

supreme and executive officers under this constitution, are designated and invested with their respective trusts, powers and authority.

Provision for revising constitution.

X. In order the more effectually to adhere to the principles of the constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary, the general court, which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the selectmen of the several towns, and to the assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the constitution, in order to amendments.

Same subject.

And if it shall appear, by the returns made, that two-thirds of the qualified voters throughout the State, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the general court shall issue precepts, or direct them to be issued from the secretary's office, to the several towns, to elect delegates to meet in convention for the purpose aforesaid.

The said delegates to be chosen in the same manner and proportion as their representatives in the second branch of the legislature are by this constitution to be chosen.

Provision for preserving and publishing this constitution.

XI. This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this Commonwealth, in all future editions of the said laws.

ARTICLES OF AMENDMENT.

Bill, &c., not approved within five days, not to become a law, if legislature adjourn in the mean time.

ART. I. If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have been laid before the governor for his approbation, and thereby prevent his returning it, with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

ART. II. The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this Commonwealth, and to grant to the inhabitants thereof such powers, privileges and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants in wards, or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings: provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants; nor unless it be with the consent, and on the application, of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose; and provided, also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court.

General court empowered to charter cities.

Proviso.

ART. III. Every male citizen of twenty-one years of age and upwards, (excepting paupers and persons under guardianship,) who shall have resided within the Commonwealth one year, and within the town or district, in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, and who shall have paid, by himself or his parent, master, or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this Commonwealth; and also, every citizen who shall be by law exempted from taxation, and who shall be in all other respects qualified as above mentioned, shall have a right to vote in such election of governor, lieutenant-governor, senators and representatives; and no other person shall be entitled to vote in such elections.

Qualifications of voters for governor, lieutenant-governor, senators and representatives. II Pick. 533.

ART. IV. Notaries public shall be appointed by the governor, in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the governor, with the consent of the council, upon the address of both houses of the legislature.

Notaries public, how appointed and removed.

In case the office of secretary or treasurer of the Commonwealth shall become vacant from any cause, during the recess of the general court, the governor, with the advice and consent of the council, shall nominate and appoint,

Vacancies in the offices of secretary and treasurer, how filled in case, &c. See amendments, Art. XVII.

under such regulations as may be prescribed by law, a competent and suitable person to such vacant office, who shall hold the same until a successor shall be appointed by the general court.

Commissary-general may be appointed, in case, &c.

Whenever the exigencies of the Commonwealth shall require the appointment of a commissary-general, he shall be nominated, appointed and commissioned, in such manner as the legislature may, by law, prescribe.

Militia officers, how removed.

All officers commissioned to command in the militia, may be removed from office in such manner as the legislature may, by law, prescribe.

Who may vote for captains and subalterns.

ART. V. In the elections of captains and subalterns of the militia, all the members of their respective companies, as well those under, as those above the age of twenty-one years, shall have a right to vote.

Oath to be taken by all officers;

ART. VI. Instead of the oath of allegiance prescribed by the constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the government of this Commonwealth, before he shall enter on the duties of his office, to wit:—

“I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, GOD.”

or affirmation, in case, &c.

Provided, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word “swear,” and inserting, instead thereof, the word “affirm,” and omitting the words “So help me, God,” and subjoining, instead thereof, the words “This I do under the pains and penalties of perjury.”

Tests abolished.

ART. VII. No oath, declaration or subscription, excepting the oath prescribed in the preceding article, and the oath of office, shall be required of the governor, lieutenant-governor, councillors, senators or representatives, to qualify them to perform the duties of their respective offices.

Incompatibility of offices.

ART. VIII. No judge of any court of this Commonwealth, (except the court of sessions,) and no person holding any office under the authority of the United States, (postmasters excepted,) shall, at the same time, hold the office of governor, lieutenant-governor, or councillor, or have a seat in the senate or house of representatives of this Commonwealth;

and no judge of any court in this Commonwealth, (except the court of sessions,) nor the attorney-general, solicitor-general, county-attorney, clerk of any court, sheriff, treasurer and receiver-general, register of probate, nor register of deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of his said office; and judges of the courts of common pleas shall hold no other office under the government of this Commonwealth, the office of justice of the peace and militia offices excepted.

ART. IX. If, at any time hereafter, any specific and particular amendment or amendments to the constitution be proposed in the general court, and agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two houses, with the yeas and nays taken thereon, referred to the general court then next to be chosen, and shall be published; and if, in the general court next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, then it shall be the duty of the general court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters, voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the constitution of this Commonwealth.

Amendments to constitution, how made.

ART. X. The political year shall begin on the first Wednesday of January, instead of the last Wednesday of May; and the general court shall assemble every year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and do all the other acts, which are by the constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the governor. The

Commencement of political year,

and termination.

governor, lieutenant-governor and councillors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

Meetings for the choice of governor, lieutenant-governor, &c., when to be held. May be adjourned. See amendments, Art. XV.

The meeting for the choice of governor, lieutenant-governor, senators and representatives, shall be held on the second Monday of November in every year; but meetings may be adjourned, if necessary, for the choice of representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of representatives, such meetings shall be held on the fourth Monday of the same month of November.

All the other provisions of the constitution, respecting the elections and proceedings of the members of the general court, or of any other officers or persons whatever, that have reference to the last Wednesday of May as the commencement of the political year, shall be so far altered, as to have like reference to the first Wednesday of January.

Article, when to go into operation.

This article shall go into operation on the first day of October, next following the day when the same shall be duly ratified and adopted as an amendment of the constitution; and the governor, lieutenant-governor, councillors, senators, representatives, and all other state officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer; and the first election of the governor, lieutenant-governor, senators and representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of November following the day on which the same shall be in force and go into operation, pursuant to the foregoing provision.

Inconsistent provisions annulled.

All the provisions of the existing constitution, inconsistent with the provisions herein contained, are hereby wholly annulled.

Religious freedom established.

ART. XI. Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted:—

“As the public worship of God, and instructions in piety, religion and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this Commonwealth, whether corporate or unincorporate, at any meeting

legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses: and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made or entered into by such society: and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the Commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law."

ART. XII. In order to provide for a representation of the citizens of this Commonwealth, founded upon the principles of equality, a census of the ratable polls in each city, town and district of the Commonwealth, on the first day of May, shall be taken and returned into the secretary's office, in such manner as the legislature shall provide, within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter, in the month of May, in manner aforesaid: and each town or city having three hundred ratable polls at the last preceding decennial census of polls, may elect one representative, and for every four hundred and fifty ratable polls, in addition to the first three hundred, one representative more.

Census of ratable polls to be taken in 1837, and decennially thereafter.

Representatives, how apportioned. See amendments, Art. XIII.

Any town having less than three hundred ratable polls shall be represented thus: The whole number of ratable polls, at the last preceding decennial census of polls, shall be multiplied by ten, and the product divided by three hundred; and such town may elect one representative as many years within ten years, as three hundred is contained in the product aforesaid.

Towns having less than 300 ratable polls, how represented.

Any city or town having ratable polls enough to elect one or more representatives, with any number of polls beyond the necessary number, may be represented, as to that surplus number, by multiplying such surplus number by ten, and dividing the product by four hundred and fifty; and such city or town may elect one additional representative as many years, within the ten years, as four hundred and fifty is contained in the product aforesaid.

Fractions, how represented.

Towns may unite into representative districts.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting in each of said towns and districts, respectively, called for that purpose, and held previous to the first day of July, in the year in which the decennial census of polls shall be taken, form themselves into a representative district, to continue until the next decennial census of polls, for the election of a representative or representatives; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of ratable polls.

The governor and council to determine the number of representatives to which each town is entitled.

The governor and council shall ascertain and determine, within the months of July and August, in the year of our Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of representatives which each city, town and representative district is entitled to elect, and the number of years, within the period of ten years then next ensuing, that each city, town and representative district, may elect an additional representative; and where any town has not a sufficient number of polls to elect a representative each year, then, how many years within the ten years, such town may elect a representative: and the same shall be done once in ten years thereafter, by the governor and council, and the number of ratable polls in each decennial census of polls, shall determine the number of representatives which each city, town and representative district may elect as aforesaid; and when the number of representatives to be elected by each city, town or representative district is ascertained and determined as aforesaid, the governor shall cause the same to be published forthwith for the information of the people, and that number shall remain fixed and unalterable for the period of ten years.

New apportionment to be made once in every ten years.

Inconsistent provisions annulled.

All the provisions of the existing constitution inconsistent with the provisions herein contained, are hereby wholly annulled.

Census of inhabitants to be taken in 1840, and decennially thereafter, for basis of apportionment of senators and representatives.

ART. XIII. A census of the inhabitants of each city and town, on the first day of May, shall be taken and returned into the secretary's office, on or before the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter; which census shall determine the apportionment of senators and representatives for the term of ten years.

Senatorial districts declared permanent.

The several senatorial districts now existing, shall be permanent. The senate shall consist of forty members; and in the year one thousand eight hundred and forty, and every

tenth year thereafter, the governor and council shall assign the number of senators to be chosen in each district, according to the number of inhabitants in the same. But, in all cases, at least one senator shall be assigned to each district.

The members of the house of representatives shall be apportioned in the following manner: Every town or city containing twelve hundred inhabitants, may elect one representative; and two thousand four hundred inhabitants shall be the mean increasing number, which shall entitle it to an additional representative.

House of representatives, how apportioned.

Every town containing less than twelve hundred inhabitants shall be entitled to elect a representative as many times, within ten years, as the number one hundred and sixty is contained in the number of the inhabitants of said town. Such towns may also elect one representative for the year in which the valuation of estates within the Commonwealth, shall be settled.

Small towns, how represented.

Any two or more of the several towns may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns, respectively, called for that purpose, and held before the first day of August, in the year one thousand eight hundred and forty, and every tenth year thereafter, form themselves into a representative district, to continue for the term of ten years; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of inhabitants.

Towns may unite into representative districts.

The number of inhabitants which shall entitle a town to elect one representative, and the mean increasing number, which shall entitle a town or city to elect more than one, and also the number by which the population of towns, not entitled to a representative every year, is to be divided, shall be increased, respectively, by one-tenth of the numbers above mentioned, whenever the population of the Commonwealth shall have increased to seven hundred and seventy thousand, and for every additional increase of seventy thousand inhabitants, the same addition of one-tenth shall be made, respectively, to the said numbers above mentioned.

Basis of representation, and ratio of increase

In the year of each decennial census, the governor and council shall, before the first day of September, apportion the number of representatives which each city, town and representative district is entitled to elect, and ascertain how many years, within ten years, any town may elect a representative, which is not entitled to elect one every year; and the governor shall cause the same to be published forthwith.

The governor and council to apportion the number of representatives of each town once in every ten years

Nine councillors shall be annually chosen from among the people at large, on the first Wednesday of January, or as

Councillors to be chosen from the people at large.

soon thereafter as may be, by the joint ballot of the senators and representatives, assembled in one room, who shall, as soon as may be, in like manner, fill up any vacancies that may happen in the council, by death, resignation or otherwise. No person shall be elected a councillor who has not been an inhabitant of this Commonwealth for the term of five years immediately preceding his election; and not more than one councillor shall be chosen from any one senatorial district in the Commonwealth.

Qualifications of councillors.

Freehold as a qualification not required.

No possession of a freehold, or of any other estate, shall be required as a qualification for holding a seat in either branch of the general court, or in the executive council.

Elections by the people to be by plurality of votes.

ART. XIV. In all elections of civil officers by the people of this Commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

Time of annual election of governor and legislature.

ART. XV. The meeting for the choice of governor, lieutenant-governor, senators and representatives, shall be held on the Tuesday next after the first Monday in November, annually; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November.

Eight councillors to be chosen by the people.

ART. XVI. Eight councillors shall be annually chosen by the inhabitants of this Commonwealth, qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor.

Legislature to district State.

The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next State census shall have been taken, and at its first session after each decennial State census thereafter, shall divide the Commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor: *provided, however,* that if, at any time, the constitution shall provide for the division of the Commonwealth into forty senatorial districts, then the legislature shall so arrange the councillor districts that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of councillor who has not been an inhabitant of the Commonwealth for the term of five years immediately preceding his election. The day and manner of the elec-

Qualification of councillors.

tion, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of governor. Whenever there shall be a failure to elect the full number of councillors, the vacancies shall be filled in the same manner as is required for filling vacancies in the senate; and vacancies occasioned by death, removal from the State, or otherwise, shall be filled in like manner, as soon as may be after such vacancies shall have happened. And that there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in case of the election of either of said officers, the choice shall be by them declared and published; but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

Day and manner of election, &c.

Vacancies, how filled.

Organization of the government.

ART. XVII. The secretary, treasurer and receiver-general, auditor, and attorney-general, shall be chosen annually, on the day in November prescribed for the choice of governor; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of one year from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer and receiver-general, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like man-

Election of secretary, treasurer, auditor and attorney-general, by the people.

Vacancies, how filled.

To qualify within 10 days, otherwise office to be deemed vacant.

Qualifications requisite.

School moneys not to be applied for sectarian schools.

Legislature to prescribe, for the election of sheriffs, registers of probate, &c., by the people.

ner be filled by choice from the people at large ; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this Commonwealth five years next preceding his election or appointment.

ART. XVIII. All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the State for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended ; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own schools.

ART. XIX. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, commissioners of insolvency, and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe.

[NOTE.—The Constitution of Massachusetts was agreed upon by delegates of the people, in convention, begun and held at Cambridge, on the first day of September, 1779, and continued by adjournments to the second day of March, 1780, when the convention adjourned to meet on the first Wednesday of the ensuing June. In the meantime the Constitution was submitted to the people, to be adopted by them, provided two-thirds of the votes given should be in the affirmative. When the convention assembled, it was found that the Constitution had been adopted by the requisite number of votes, and the convention accordingly *Resolved*, “ That the said Constitution or Frame of Government shall take place on the last Wednesday of October next ; and not before, for any purpose, save only for that of making elections, agreeable to this resolution.” The first legislature assembled at Boston, on the twenty-fifth day of October, 1780.

The first nine Articles of Amendment were submitted, by delegates in convention assembled November 15, 1820, to the people, and by them approved and adopted, April 9, 1821.

The tenth Article of Amendment was adopted by the legislatures of the political years 1829-30, and 1830-31, and was approved and ratified by the people, May 11, 1831.

The eleventh Article of Amendment was adopted by the legislatures of the political years 1832 and 1833, and was approved and ratified by the people, November 11, 1833.

The twelfth Article of Amendment was adopted by the legislatures of the political years 1835 and 1836, and was approved and ratified by the people, the fourteenth day of November, 1836.

The thirteenth Article of Amendment was adopted by the legislatures of the political years 1839 and 1840, and was approved and ratified by the people, the sixth day of April, 1840.

The fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth Articles of Amendment were adopted by the legislatures of the political years 1854 and 1855, and ratified by the people the twenty-third day of May, 1855.]

LIST OF THE
CIVIL GOVERNMENT

OF THE

Commonwealth of Massachusetts,

AND OFFICERS IMMEDIATELY CONNECTED THEREWITH,

FOR THE POLITICAL YEAR, 1856.

CIVIL GOVERNMENT—1856.

HIS EXCELLENCY

HENRY J. GARDNER,
GOVERNOR.

HIS HONOR

HENRY W. BENCHLEY,
LIEUTENANT-GOVERNOR.

COUNCIL.

HORACE LYMAN,	MOSES G. COBB,
DAVID DAVIS,	JOHN KENRICK,
CHARLES H. STEDMAN,	CALEB D. HUNKING,
JOSIAH G. PEABODY,	EDWARD DENNY,
THOMAS COLT.	

FRANCIS DEWITT.

Secretary of the Commonwealth.

CHARLES W. LOVETT, *1st Clerk.* ALBERT L. FERNALD, *2d Clerk.*

MOSES TENNEY, JR.,

Treasurer and Receiver-General of the Commonwealth.

DANIEL H. ROGERS, *1st Clerk.* JOHN H. SMITH, *2d Clerk.*

CHANDLER R. RANSOM,

Auditor of Accounts.

WILLIAM EVELETH, *Clerk.*

FRANCIS M. ADAMS,

Messenger to the Governor and Council.

SENATE.

ELIHU C. BAKER,
PRESIDENT.

SUFFOLK DISTRICT.

Abel B. Munroe,	George M. Thacher,
George Odiorne,	Daniel Warren,
Samuel S. Perkins.	George W. Warren.

ESSEX DISTRICT.

John Batchelder,	Ben Osgood,
Augustus C. Carey,	William Sutton.
William Hall,	

MIDDLESEX DISTRICT.

Elihu C. Baker,	John A. Buttrick,
Benjamin H. Brown.	Abiel S. Lewis,
Ephraim W. Bull.	Z. L. Raymond.

WORCESTER DISTRICT.

Francis H. Dewey.	Velorus Taft,
Jabez Fisher.	Salem Towne.
Artemas Lee.	

HAMPSHIRE DISTRICT.

William S. Brakenridge,	Oliver Warner.
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HAMPDEN DISTRICT.

Hiram C. Brown,	Benning Leavitt.
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FRANKLIN DISTRICT.

Almond Brainard.

BERKSHIRE DISTRICT.

Benjamin F. Mills, William Taylor.

NORFOLK DISTRICT.

James E. Carpenter, Benjamin F. White.
Bradford K. Peirce,

BRISTOL DISTRICT.

David H. Bartlett, John Rogers.
Joseph E. Dawley,

PLYMOUTH DISTRICT.

Amos Bates, Nathan King.

BARNSTABLE DISTRICT.

Sylvester Baxter, Alfred Kenrick.

NANTUCKET AND DUKES CO. DISTRICT.

John H. Shaw.

PETER L. COX, *Clerk.*WILLIAM R. MARSH, *Assistant-Clerk.*REV. DANIEL C. EDDY, *Chaplain.*BENJAMIN STEVENS, *Sergeant-at-Arms.*WILLIAM M. WISE, *Door-keeper.*JOHN A. SARGENT, *Assistant Door-keeper.*WILLIAM SAYWARD, *Postmaster.*TILSON FULLER, *Messenger.*WILLIAM R. WISE, *Page.*

HOUSE OF REPRESENTATIVES.

CHARLES A. PHELPS,
SPEAKER.

COUNTY OF SUFFOLK.

Boston,

Milton Austin,
James H. Beal,
Hiram Bosworth,
Osmyn Brewster,
Robert I. Burbank,
H. G. K. Calef,
George P. Clapp,
John Codman,
Morrill Cole,
Charles C. Conley,
George Dennie,
Charles Dupee,
Micah Dyer, Jr.,
Charles Emerson,
Lewis Endicott,
Isaac W. Frye,
Charles Hale,
Theodore P. Hale,
Samuel W. Hall,
Daniel Hammond,
Thomas Haviland,
Calvin P. Hinds,

Boston,

Justin Jones,
 Peter C. Jones,
 Noah Lincoln, Jr.,
 Harrison Loring,
 William Makepeace,
 Watson G. Mayo,
 Elias Merwin,
 Richard Nutter,
 Charles A. Phelps, *Speaker*,
 John H. Pitman,
 George H. Plummer,
 William Read,
 Harrison Ritchie,
 Charles O. Rogers,
 John W. Rogers,
 James W. Sever,
 Asa Swallow,
 David Thayer,
 Stephen Tilton,
 Charles Torrey,
 Edward A. Vose,
 J. Otis Williams.
Chelsea,
 Samuel Batchelder,
 Samuel Orcutt.
North Chelsea,
 John F. Fenno.

COUNTY OF ESSEX.

Amesbury,
Andover,

Dudley Evans.
 Moses Foster, Jr.,
 Gayton P. Osgood.
Beverly,
 John I. Baker,
 Richard P. Waters.

Boxford,
Bradford,
Danvers,

Israel W. Andrews,
 Eben S. Poor,
 Alonzo P. Phillips.
Essex,
 Samuel Story.

<i>Georgetown,</i>	George I. Tenney.
<i>Gloucester,</i>	Jeremiah R. Cook, Edward H. Pearce.
<i>Groveland,</i>	John Tenney.
<i>Hamilton,</i>	Trueman M. Martyn,*
<i>Haverhill,</i>	William Taggart.
<i>Ipswich,</i>	James Estes.
<i>Lawrence,</i>	John Gale, Benjamin Harding, Thomas W. Floyd.
<i>Lynn,</i>	James S. Lewis, Roland G. Usher, William F. Johnson, Jesse K. Snow.
<i>Lynnfield,</i>	David A. Titcomb.
<i>Manchester,</i>	Albert E. Low.
<i>Marblehead,</i>	Franklin Knight, Thomas W. Webber.
<i>Methuen,</i>	Joseph F. Ingalls.
<i>Middleton,</i>	
<i>Nahant,</i>	
<i>Newbury,</i>	Joseph Lunt.
<i>Newburyport,</i>	Joshua D. Robinson, Daniel M. Reed, William H. Huse.
<i>North Andover,</i>	
<i>Rockport,</i>	Samuel York.
<i>Rowley,</i>	
<i>Salem,</i>	Edward B. Arnold, John Chamberlain, George H. Devereux, Henry Luscomb, Jr., John W. Russell, John W. Rhoades.
<i>Salisbury,</i>	William H. Bagley.
<i>Saugus,</i>	William H. Newhall.

* Deceased.

<i>South Danvers,</i>	
<i>Swampscott,</i>	
<i>Topsfield,</i>	
<i>Wenham,</i>	
<i>West Newbury.</i>	Joseph Z. Gordon.

COUNTY OF MIDDLESEX.

<i>Acton,</i>	Aaron C. Handley.
<i>Ashby,</i>	
<i>Ashland,</i>	
<i>Bedford,</i>	
<i>Billerica,</i>	Zenas Herrick.
<i>Boxborough,</i>	
<i>Brighton,</i>	William Warren.
<i>Burlington,</i>	
<i>Cambridge,</i>	William Parker, Henry S. Hills, Franklin Hall, Asa F. Lawrence, Eben Manson.
<i>Carlisle,</i>	
<i>Charlestown,</i>	James Emery, Lyman B. Goss, Joseph Lovett, Edward R. Robinson, Phineas J. Stone.
<i>Chelmsford,</i>	Joseph Manning.
<i>Concord,</i>	Samuel Staples.
<i>Dracut,</i>	Joseph B. V. Coburn.
<i>Dunstable,</i>	
<i>Framingham,</i>	Josiah H. Temple.
<i>Groton,</i>	John W. Parker.
<i>Holliston,</i>	George Batchelder.
<i>Hopkinton,</i>	Uriah Bowker.
<i>Lexington,</i>	Simon W. Robinson.
<i>Lincoln,</i>	
<i>Littleton,</i>	

<i>Lowell,</i>	Joseph M. Burt,
	Caleb Crosby,
	Weare Clifford,
	Luther J. Fletcher,
	Charles F. Hard,
	Asa Hildreth,
	Jonathan Johnson,
	Henry Phelps, Jr.,
	Augustus B. Roby,
	Jonathan Weeks.
<i>Malden,</i>	David R. Shepard.
<i>Marlborough,</i>	Hollis Loring.
<i>Medford,</i>	John Sparrell.
<i>Melrose,</i>	
<i>Natick,</i>	Isaac Felch.
<i>Newton,</i>	Isaac Hagar,
	Charles E. Pike.
<i>North Reading,</i>	
<i>Pepperell,</i>	Alfred L. Lawrence.
<i>Reading,</i>	Thomas N. Jones.
<i>Sherborn,</i>	
<i>Shirley,</i>	
<i>Somerville,</i>	Isaac Story.
<i>South Reading,</i>	James Oliver.
<i>Stoneham,</i>	Samuel Tidd.
<i>Stow,</i>	
<i>Sudbury,</i>	Cyrus Taylor.
<i>Tewksbury,</i>	
<i>Townsend,</i>	F. A. Worcester.
<i>Tyngsborough,</i>	
<i>Waltham,</i>	William P. Childs.
<i>Watertown,</i>	Levi Thaxter.
<i>Wayland,</i>	
<i>West Cambridge,</i>	Nehemiah M. Fessenden.
<i>Westford,</i>	Calvin Howard.
<i>Weston,</i>	
<i>Wilmington.</i>	
<i>Winchester,</i>	Aaron D. Weld.
<i>Woburn,</i>	Ebenezzer N. Blake.

COUNTY OF WORCESTER.

<i>Ashburnham,</i>	Ohio Whitney, Jr.
<i>Athol,</i>	James I. Goulding.
<i>Auburn,</i>	
<i>Barre,</i>	Warner Smith.
<i>Berlin,</i>	
<i>Blackstone,</i>	Henry S. Mansfield.
<i>Bolton,</i>	
<i>Boylston,</i>	
<i>Brookfield,</i>	Newton Dunton.
<i>Charlton,</i>	Mason Marble.
<i>Clinton,</i>	Horace Faulkner.
<i>Dana,</i>	
<i>Douglas,</i>	Edwin Moore.
<i>Dudley,</i>	Lemuel Healy.
<i>Fitchburg,</i>	Salmon W. Putnam,
	Benjamin M. Smith.
<i>Gardner,</i>	Asa Merriam.
<i>Grafton,</i>	Chandler M. Pratt.
<i>Hardwick,</i>	William Mixter.
<i>Harvard,</i>	Ebenezer C. Willard.
<i>Holden,</i>	Silas Flagg, Jr.
<i>Hubbardston,</i>	Levi Miles.
<i>Lancaster,</i>	John G. Thurston.
<i>Leicester,</i>	Lucius Woodcock.
<i>Leominster,</i>	William Heustis.
<i>Lunenburg,</i>	Solomon Tarbell.
<i>Mendon,</i>	
<i>Milford,</i>	Horace B. Hero.
<i>Millbury,</i>	Joseph Robbins.
<i>New Braintree,</i>	
<i>Northborough,</i>	Levi Wheeler.
<i>Northbridge,</i>	Jeremiah Robinson.
<i>North Brookfield,</i>	Levi Adams.
<i>Oakham,</i>	
<i>Oxford,</i>	George W. Hartwell.
<i>Paxton,</i>	
<i>Petersham,</i>	John G. Mudge.

<i>Phillipston,</i>	Jervis Davis.
<i>Princeton,</i>	Abram H. Temple.
<i>Royalston,</i>	
<i>Rutland,</i>	Ezekiel D. Rockwood.
<i>Shrewsbury,</i>	John Edwards.
<i>Southborough,</i>	Dennis Ward.
<i>Southbridge,</i>	Moses Sawyer, 2d.
<i>Spencer,</i>	David K. Porter.
<i>Sterling,</i>	Sumner Cole.
<i>Sturbridge,</i>	John Sawyer, 2d.
<i>Sutton,</i>	Elijah W. Wood.
<i>Templeton,</i>	Charles A. Taft.
<i>Upton,</i>	Samuel E. Blair.
<i>Uxbridge,</i>	Parmenus Keith.
<i>Warren,</i>	Charles P. Rice.
<i>Webster,</i>	Amos Child.
<i>Westborough,</i>	
<i>West Boylston,</i>	Harrison G. Whitney.
<i>West Brookfield,</i>	Maynard Partridge.
<i>Westminster,</i>	Harrison Bliss,
<i>Winchendon,</i>	Elijah B. Stoddard,
<i>Worcester,</i>	Putman W. Taft,
	George W. Russell,
	John H. Brooks.

COUNTY OF HAMPSHIRE.

<i>Amherst,</i>	Baxter Eastman.
<i>Belchertown,</i>	Ebenezer Warner.
<i>Chesterfield,</i>	
<i>Cummington,</i>	
<i>Easthampton,</i>	
<i>Enfield,</i>	George L. Shaw.
<i>Goshen,</i>	
<i>Granby,</i>	
<i>Greenwich,</i>	
<i>Hadley,</i>	P. Smith Williams.

<i>Hatfield,</i>	Reuben H. Belden.
<i>Huntington,</i>	
<i>Middlefield,</i>	
<i>Northampton,</i>	Daniel Kingsley, Samuel L. Parsons.
<i>Pelham,</i>	
<i>Plainfield,</i>	
<i>Prescott,</i>	
<i>South Hadley,</i>	Dexter Ingraham.
<i>Southampton,</i>	Lysander B. Bates.
<i>Ware,</i>	Samuel H. Phelps.
<i>Westhampton,</i>	
<i>Williamsburg,</i>	Thomas Meekins.
<i>Worthington,</i>	

COUNTY OF HAMPDEN.

<i>Agawan,</i>	Ralsa Taggart.
<i>Blandford,</i>	Alfred L. Converse.
<i>Brimfield,</i>	
<i>Chester,</i>	
<i>Chicopee,</i>	Sylvester Allen, Jonathan Jones, John H. Smith.
<i>Granville,</i>	
<i>Holland,</i>	
<i>Holyoke,</i>	Joshua Gray.
<i>Longmeadow,</i>	Stephen T. Colton.
<i>Ludlow,</i>	Elisha T. Parsons.
<i>Monson,</i>	William B. Converse.
<i>Montgomery,</i>	
<i>Palmer,</i>	Alonzo N. Dewey.
<i>Russell,</i>	
<i>Southwick,</i>	
<i>Springfield,</i>	Horatio N. Case, William Crossman, Willis Phelps, Henry Pomeroy.
<i>Tolland,</i>	

<i>Wales,</i>	
<i>Westfield.</i>	Nathaniel Chapin.
<i>West Springfield.</i>	Jonathan W. Freeland.
<i>Wilbraham,</i>	John Baldwin.

COUNTY OF FRANKLIN.

<i>Ashfield,</i>	Manly Guilford.
<i>Bernardston,</i>	
<i>Buckland,</i>	
<i>Charlemont,</i>	
<i>Colerain,</i>	Adams Calhoun Deane.
<i>Conway,</i>	Edwin Cooley.
<i>Deerfield,</i>	Edward W. Stebbins.
<i>Erving,</i>	
<i>Gill,</i>	
<i>Greenfield,</i>	Samuel O. Lamb.
<i>Hawley,</i>	
<i>Heath,</i>	
<i>Leverett,</i>	
<i>Leyden,</i>	
<i>Monroe,</i>	
<i>Montague,</i>	
<i>New Salem,</i>	
<i>Northfield,</i>	Elijah Stratton.
<i>Orange,</i>	Solomon A. Howe.
<i>Rowe,</i>	
<i>Shelburne,</i>	
<i>Shutesbury,</i>	
<i>Sunderland,</i>	
<i>Warwick,</i>	
<i>Wendell,</i>	
<i>Whately,</i>	Hiram Smith.

COUNTY OF BERKSHIRE.

<i>Adams,</i>	Elihu C. Hawkes,
	Daniel Upton.
<i>Alford,</i>	
<i>Becket,</i>	

<i>Cheshire,</i>	Russell C. Brown.
<i>Clarksburg,</i>	
<i>Dalton,</i>	Thomas G. Carson.
<i>Egremont,</i>	
<i>Florida,</i>	
<i>Great Barrington,</i>	Charles J. Taylor.
<i>Hancock,</i>	
<i>Hinsdale,</i>	
<i>Lanesborough,</i>	
<i>Lee,</i>	Charles S. Thatcher.
<i>Lenox,</i>	Horatio N. Sears.
<i>Monterey,</i>	
<i>Mount Washington,</i>	
<i>New Ashford,</i>	
<i>New Marlborough,</i>	Edwin Adams.
<i>Otis,</i>	Lorenzo Webb.
<i>Peru,</i>	
<i>Pittsfield,</i>	Henry S. Briggs, John C. West.
<i>Richmond,</i>	
<i>Sandisfield,</i>	Lemuel K. Strickland.
<i>Savoy,</i>	
<i>Sheffield,</i>	Joseph Willcox.
<i>Stockbridge,</i>	Thomas Wells.
<i>Tyringham,</i>	
<i>Washington,</i>	
<i>West Stockbridge,</i>	Heman Ford.
<i>Williamstown,</i>	Richard W. Swan.
<i>Windsor,</i>	

COUNTY OF NORFOLK.

<i>Bellingham,</i>	
<i>Braintree,</i>	Joel E. Holbrook.
<i>Brookline,</i>	John N. Turner.
<i>Canton,</i>	Samuel Davenport.
<i>Cohasset,</i>	George Beal, Jr.
<i>Dedham,</i>	Ezra Wilkinson.

<i>Dorchester,</i>	James H. Upham, Gustavus E. Haynes.
<i>Dover,</i>	
<i>Foxborough,</i>	John Littlefield.
<i>Franklin,</i>	Mason S. Southworth.
<i>Medfield,</i>	
<i>Medway,</i>	Tisdale S. White.
<i>Milton,</i>	Samuel Babcock.
<i>Needham,</i>	Jonathan Fuller.
<i>Quincy,</i>	Wyman Abererombie, William W. Baxter.
<i>Randolph,</i>	George W. Paine.
<i>Roxbury,</i>	Isaac S. Burrell, William Gaston, James Guild, Amos Stevens, Melancthon Smith, Samuel Walker.
<i>Sharon,</i>	George W. Gay.
<i>Stoughton,</i>	Charles A. French.
<i>Walpole,</i>	Jeremiah Allen.
<i>Weymouth,</i>	Daniel Dyer, Abner Holbrook.
<i>West Roxbury,</i>	
<i>Wrentham,</i>	Charles W. Farrington.

COUNTY OF BRISTOL.

<i>Attleborough,</i>	Elkanah Briggs.
<i>Berkley,</i>	Enoch Boyce, Jr.
<i>Dartmouth,</i>	Nathaniel Potter, Jr.
<i>Dighton,</i>	George F. Gavitt.
<i>Easton,</i>	William Barrows.
<i>Fairhaven,</i>	Daniel J. Lewis.
<i>Fall River,</i>	Job B. Ashly, John S. Brayton, Jonathan E. Morrill, Brayton Slade.
<i>Freetown,</i>	Merchant White.

<i>Mansfield,</i>	William Robinson.
<i>New Bedford,</i>	Nathaniel Gilbert,
	John Hicks,
	Daniel Homer,
	Edward Milliken,
	Henry F. Thomas.
<i>Norton,</i>	George B. Crane.
<i>Pawtucket,</i>	Nathan P. Towne.
<i>Raynham,</i>	Alpheus Pratt, Jr.
<i>Rehoboth,</i>	Nelson Goff.
<i>Seekonk,</i>	Francis Armington.
<i>Somerset.</i>	
<i>Swansey,</i>	Benjamin S. Earle.
<i>Taunton,</i>	Lawson Blood,
	Job M. Godfrey,
	Andrew Pollard.
<i>Westport,</i>	Abiel Davis.

COUNTY OF PLYMOUTH.

<i>Abington,</i>	Nathan S. Jenkins,
	James M. Pool.
<i>Bridgewater,</i>	Elbridge Keith.
<i>Carver,</i>	
<i>Duxbury,</i>	Murlin Gardner.
<i>East Bridgewater,</i>	Isaac Pratt.
<i>Halifax,</i>	
<i>Hanover,</i>	
<i>Hanson,</i>	
<i>Hingham,</i>	William Whiton.
<i>Hull,</i>	
<i>Kingston,</i>	Edward Gray.
<i>Lakeville,</i>	
<i>Marion,</i>	
<i>Marshfield,</i>	Seth Weston.
<i>Middleborough,</i>	Jared Pratt, 2d,
	Soranus Standish.
<i>North Bridgewater,</i>	Azariah B. Wheeler.
<i>Pembroke,</i>	

<i>Plymouth,</i>	Ezra Leach, Charles Nelson.
<i>Plympton,</i>	
<i>Rochester,</i>	Amitta B. Hammond.
<i>Scituate,</i>	Thomas Conant.
<i>South Scituate,</i>	Henry J. Curtis.
<i>Wareham,</i>	Jason F. Murdock.
<i>West Bridgewater,</i>	

COUNTY OF BARNSTABLE.

<i>Barstable,</i>	John A. Baxter, Nathan Crocker.
<i>Brewster,</i>	
<i>Chatham,</i>	Heman Smith.
<i>Dennis,</i>	Joshua C. Howes.
<i>Eastham,</i>	
<i>Falmouth,</i>	Erasmus Gould.
<i>Harwich,</i>	Elkanah Nickerson.
<i>Orleans,</i>	Josiah Freeman.
<i>Provincetown,</i>	Joseph P. Johnson.
<i>Sandwich,</i>	Charles H. Nye.
<i>Truro,</i>	Samuel H. Smith, Jr.
<i>Wellfleet,</i>	John Y. Jacobs.
<i>Yarmouth,</i>	Samuel Thacher, Jr.

DUKES COUNTY.

<i>Chilmark,</i>	
<i>Edgartown,</i>	John Vinson.
<i>Tisbury,</i>	Nathan Mayhew.

COUNTY OF NANTUCKET.

<i>Nantucket,</i>	William Barney, Edward Hammond, John Morrisy.
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HOUSE OF REPRESENTATIVES.

WILLIAM E. P. HASKELL, *Clerk.*

HENRY A. MARSH, *Assistant-Clerk.*

REV. A. D. MERRILL, *Chaplain.*

BENJAMIN STEVENS, *Sergeant-at-Arms.*

ALEXIS POOLE, *Door-keeper.*

AUGUSTUS LOTHROP, *Messenger.*

HENRY OAKS, *Assistant-Messenger.*

WILLIAM SAYWARD, *Postmaster.*

JOSEPH P. DEXTER, Jr., *Page.*

AMASA H. TOLMAN, *Assistant-Page.*

A C T S
AND
R E S O L V E S

PASSED BY THE

General Court of Massachusetts,

IN THE YEAR

1857:

TOGETHER WITH THE MESSAGES,

ETC., ETC., ETC.

PUBLISHED BY THE

SECRETARY OF THE COMMONWEALTH.



BOSTON:
WILLIAM WHITE, PRINTER TO THE STATE.
1857.

☞ The General Court of 1857 assembled in the State House in Boston, on Wednesday, the seventh day of January, and was prorogued on Saturday, the thirtieth day of May.

The oaths of office were administered to His Excellency, HENRY J. GARDNER, on the ninth day of January.

GENERAL STATUTES

AND

SPECIAL ACTS

OF

MASSACHUSETTS,

1857.

AN ACT concerning Clerks of County Commissioners.

Chap. 1.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECTION 1. The clerks of the supreme judicial court and court of common pleas, shall hereafter be clerks of the county commissioners, for their respective counties.

Clerks of County Commissioners.

SECTION 2. This act shall take effect from and after its passage. [*Approved February 5, 1857.*]

AN ACT in addition to "An Act to establish the City of New Bedford."

Chap. 2.

Be it enacted, &c., as follows :

SECTION 1. The election of mayor, aldermen and common councilmen, and such other officers of the city of New Bedford, as are now by law to be chosen on the first Monday of March, annually, shall in future be made on the first Monday of December, annually; and the said officers so chosen shall hereafter enter upon the duties of their respective offices, on the first Monday in January, annually, and shall hold their said offices for the term of one year thereafter, and until others are chosen and qualified in their

Time of electing its officers, changed, &c.

stead, (excepting assessors and members of the school committee, whose terms of office are to be regulated according to the fourth and fifth sections of this act;) and the same proceedings shall be had in relation to such elections, as are provided in the act entitled, “An Act to establish the City of New Bedford,” to which this is in addition: *provided, nevertheless*, that the next choice of the said city officers, and of the ward officers, as provided in section second,—after the acceptance of this act by the inhabitants of the said city of New Bedford, as hereinafter provided,—shall be made at such time and in such manner as is prescribed in the act aforesaid; and the officers so elected, (excepting the mayor, assessors and members of the school committee,) shall hold their offices only until the first Monday in January next succeeding such election; any thing in said act to the contrary notwithstanding.

Proviso.

Warden, clerk, and inspectors of elections.

SECTION 2. On the first Monday in December, annually, there shall be chosen by ballot, in each of the wards of the city of New Bedford, a warden, clerk, and three inspectors of elections, who shall be different persons, residents of the ward in which they are chosen, whose term of office shall commence on the first Monday in January next ensuing, and they shall hold their offices for one year thereafter, and until others have been chosen and qualified in their stead; and the warden, clerk and inspectors, before entering upon their duties, shall respectively make oath, faithfully and impartially to discharge their several duties relative to all elections, which oath may be administered by the city clerk to the warden, and by the warden to the ward clerk and inspectors, or to either or all of said officers, by any justice of the peace for the county of Bristol.

Qualification.

Duty of warden.

It shall be the duty of such warden to preside at all ward meetings, with the powers of moderator of town meetings. And if at any such meeting the warden shall be absent, the clerk, and in case of the absence of the clerk, any inspector shall preside, according to seniority of age, until a warden, *pro tempore*, shall be chosen by ballot; and in case of the absence of any ward officer, at any ward meeting, such officer may be chosen, *pro tempore*, by ballot, and shall have all the powers, and be subject to all the duties of the regular officer at such meetings.

Warden *pro tem*.

City council to elect marshal, &c.

SECTION 3. The city council shall, annually, as soon after their organization as may be convenient, elect, by joint ballot in convention, a city marshal and assistants, and constables, who shall hold their offices until others are chosen and qualified in their stead, and all other needful police officers, who

shall hold office for such time as the city council shall by standing ordinance prescribe: *provided, however*, that no person shall be chosen a marshal or constable, or to any other office in the department of police of the city, who shall not have been nominated to the city council by the mayor.

The city council shall in like manner, in the month of April, annually, elect a city clerk and a city treasurer and collector of taxes, and shall, in such manner as their by-laws shall prescribe, appoint or elect all subordinate officers, (whose appointment or election is not otherwise provided for,) for the ensuing year, and define their duties and compensation, when such duties and compensation shall not be defined and fixed by the laws of this Commonwealth.

In case of a vacancy in any of said offices, the same shall be filled in the manner prescribed in this section.

SECTION 4. The qualified voters in each ward, at their respective annual ward meetings, to be held next after the acceptance of this act by the inhabitants of the city of New Bedford, as hereinafter provided, shall elect by ballot, three persons in each ward, who shall be residents of the ward, to be members of the school committee; and the person who receives the highest number of votes, or in case two or more receive an equal number of votes, the person who is senior by age, shall hold the office for three years; and the person who receives the next highest number of votes, or who is senior by age in the contingency aforesaid, shall hold the office for two years; and the other person shall hold the office for one year; and at every subsequent annual election, one person shall be chosen in each ward to be a member of the school committee for the term of three years; and the persons so chosen shall constitute the school committee, and have the care and superintendence of the public schools.

SECTION 5. The qualified voters of the city, at the annual meetings in their respective wards,—to be held next after the acceptance of this act, by the inhabitants of the city of New Bedford, as hereinafter provided,—shall elect three persons, to be assessors at large; and the person who receives the highest number of votes, or in case two or more receive an equal number of votes, the person who is senior by age, shall hold the office for three years, and until another is chosen and qualified in his stead; and the person who receives the next highest number of votes, or who is senior by age in the contingency aforesaid, shall hold the office for two years, and until another is chosen and qualified in his stead; and the other person shall hold the office for one

year, and until another is chosen and qualified in his stead ; and at every subsequent annual election, one person shall be chosen to be an assessor for three years, and until another is chosen and qualified in his stead ; and the persons thus chosen assessors, shall constitute the board of assessors, and shall exercise the powers and be subject to the duties and liabilities of assessors of towns.

Vacancies, how filled.

In case of a vacancy in the board of assessors, the city council, in convention, shall elect a person to fill the same, who shall hold office until the next annual meeting for the choice of municipal officers, and until another person shall be chosen and qualified in his stead. And at said annual meeting a person shall be elected to said office, who shall hold the same for the residue of the unexpired term.

Assistant Assessors.

The qualified voters shall, at the same time, and in like manner, elect one person in each ward, who shall be a resident of the ward, to be an assistant-assessor, who shall hold his office for one year, and until another is chosen in his stead ; and it shall be the duty of the persons so chosen to furnish the assessors with all such information as they may require, relative to the persons and property taxable in their respective wards ; and they shall receive for their services such compensation per diem as the city council may determine.

Inconsistent acts repealed.

SECTION 6. All such parts of the act to which this is in addition, as also of a supplementary act, passed April twenty-third, eighteen hundred and fifty-three, as are inconsistent with the provisions of this act, are hereby repealed.

Act to be void unless accepted by inhabitants.

SECTION 7. This act shall be void, unless the inhabitants of the said city of New Bedford, at a legal meeting called for that purpose, shall, by a majority of the voters present and voting thereon by ballot, determine to adopt the same.

SECTION 8. This act shall take effect from and after its passage. [*Approved February 11, 1857.*]

Chap. 3.

AN ACT to continue in force an Act to incorporate the Newburyport Mutual Fire Insurance Company.

Be it enacted, &c., as follows :

Corporation continued twenty-eight years.

SECTION 1. The act to incorporate the Newburyport Mutual Fire Insurance Company, passed on the eleventh day of February, in the year one thousand eight hundred and twenty-nine, shall continue and remain in force for the term of twenty-eight years from the eleventh day of February, in the year one thousand eight hundred and fifty-seven ; and the said corporation shall be continued through that term, with all the powers and privileges, and subject to all

Privileges, restrictions, &c.

the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes, and all the existing statutes and such as may hereafter be passed, relating to mutual fire insurance companies.

SECTION 2. This act shall take effect from and after its passage. [*Approved February 11, 1857.*]

AN ACT to increase the Capital Stock of the New Bedford Gas Light Company. *Chap. 4.*

Be it enacted, &c., as follows :

The New Bedford Gas Light Company are hereby authorized to increase their capital stock, by an amount not exceeding seventy-five thousand dollars, and to invest such increase in real and personal estate necessary and convenient for carrying on the business of the corporation: *provided*, that no shares in the capital stock hereby authorized shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares in the original capital stock of said corporation. [*Approved February 16, 1857.*]

Capital increased \$75,000.

How invested.

Proviso.

AN ACT to incorporate the Mission Park Association.

Chap. 5.

Be it enacted, &c., as follows :

SECTION 1. Mark Hopkins, Albert Hopkins and Charles Stoddard, their associates and successors, are hereby made a corporation, by the name of the Mission Park Association; for the purpose of holding, grading, and otherwise improving the grounds situate in Williamstown, known as the Mission Park, and of erecting and placing thereon suitable monuments and other memorials, to commemorate the origin and progress of American missions: with all the powers and privileges, and subject to all the liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECTION. 2. Said corporation may hold, for the purposes aforesaid, real estate to the amount of twenty thousand dollars, and personal estate to the amount of five thousand dollars, which shall be exempted from taxation.

Real estate \$20,000.

Personal estate \$5,000.

SECTION 3. This act shall take effect from and after its passage. [*Approved February 16, 1857.*]

AN ACT to increase the Capital Stock of the Nashawannuck Manufacturing Company. *Chap. 6.*

Be it enacted, &c., as follows :

SECTION 1. The Nashawannuck Manufacturing Company are hereby authorized to increase their capital stock, by adding thereto seventy-five thousand dollars, and to invest

Capital increased \$75,000.

How invested. such portion thereof in real and personal estate, as may be necessary and convenient for carrying on the business for which said company was incorporated.

No shares issued under par. SECTION 2. No stock issued under this act shall be issued for a less sum than the par value of the original shares. [Approved February 17, 1857.]

Chap. 7. AN ACT to incorporate the Merchants' Mutual Marine Insurance Company.

Be it enacted, &c., as follows :

Corporators. SECTION 1. Isaac H. Boardman, Samuel Hale and Jacob Horton, their associates and successors, are hereby made a corporation, by the name of the Merchants' Mutual Marine Insurance Company, to be established in the city of Newburyport, for the term of twenty-eight years; for the purpose of making insurance on the mutual principle, against maritime losses: with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes, and all acts now existing, or which may hereafter be passed, relating to mutual insurance companies.

Privileges, restrictions, &c. SECTION 2. This act shall take effect from and after its passage. [Approved February 17, 1857.]

Chap. 8. AN ACT in addition to an Act to incorporate the Belvidere Woolen Manufacturing Company.

Be it enacted, &c., as follows :

Power extended. SECTION 1. That the Belvidere Woolen Manufacturing Company, established by and under an act of the legislature of this Commonwealth, in the year eighteen hundred and thirty-four, for the purpose of manufacturing woolen goods, in the town of Tewksbury, in the county of Middlesex, may also prosecute said manufacture in the town of Billerica, in said county of Middlesex. And said corporation may be lawfully seized and possessed of such real and personal estate as may be necessary and convenient for the purposes aforesaid, not exceeding in all the value of one hundred and twenty thousand dollars.

Real and personal estate not to exceed \$120,000. SECTION 2. No stock, issued under this act, shall be issued for a less sum than the par value of the original shares.

No shares under par. SECTION 3. This act shall take effect from and after its passage. [Approved February 24, 1857.]

AN ACT extending the time for the construction of the Lebanon Springs Railroad. *Chap. 9.*

Be it enacted, &c., as follows :

The time, within which the Lebanon Springs Railroad Company may construct that portion of their railroad which was originally incorporated as the "Williamstown and Hancock Railroad Company," is hereby extended to April twenty-fourth, eighteen hundred and sixty-two: *provided, however,* that the time, within which application to the county commissioners to estimate damages for land and materials taken, as provided in the fifty-eighth section of the thirty-ninth chapter of the Revised Statutes, be, and the same is hereby extended, in this case, until one year after the entire road is completed and opened for use. [*Approved February 25, 1857.*]

Time for construction extended.

Time for estimating damages extended.

AN ACT to incorporate the Young Men's Union of Salem.

Chap. 10.

Be it enacted, &c., as follows :

SECTION 1. George M. Whipple, A. Augustus Smith, Alfred Stone, Sidney C. Bancroft and George R. Emmerton, their associates and successors, are hereby made a corporation, by the name of the Young Men's Union of Salem, for the purpose of diffusing and promoting knowledge among young men now engaged in, or destined for, mercantile and other pursuits, by opening a reading-room, establishing a library, and by such other means as they may think expedient; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECTION 2. The said corporation may hold real and personal estate, to be used for the purposes aforesaid, not exceeding in all, the value of sixty thousand dollars, the legal title to which shall be in five trustees, to be appointed by a majority of the members of the corporation, in the manner prescribed by their by-laws. All the trustees shall be of adult age, and shall be subject, in the care, management and disposal of said property, to the control and direction of a majority of the board of government named in the fourth section of this act.

Real and personal estate not to exceed \$60,000, to be held by trustees.

SECTION 3. Persons engaged in mercantile and other laudable pursuits, or preparing themselves therefor, and above the age of sixteen years, and no others, shall be eligible as members of the corporation, and entitled to vote and act as officers thereof, excepting that in no case shall a person under twenty-one years of age be a trustee.

Eligibility of members, &c.

Board of govern-
ment.

SECTION 4. The persons holding the following offices shall constitute the board of government of the association, to wit:—the president, vice-president, corresponding secretary, recording secretary, treasurer and board of directors, consisting of not more than thirteen members; and said board of government may receive as subscribers to the library or reading-rooms, and admit to the privileges thereof, any person or mercantile firm, who may not be eligible as a member or members of the association under this act, upon the payment of a subscription, and complying with such other terms and conditions, as the said board may prescribe.

May receive sub-
scribers, &c.

SECTION 5. This act shall take effect from and after its passage. [*Approved March 4, 1857.*]

Chap. 11.

AN ACT relating to the Public Library in the City of Boston.

Be it enacted, &c., as follows :

Act repealed.

SECTION 1. So much of the act of March twelfth, one thousand eight hundred and fifty-three, as limits to ten thousand dollars the appropriations, authorized to be made annually by the city of Boston, to maintain a public library, is hereby repealed.

SECTION 2. This act shall take effect from and after its passage. [*Approved March 4, 1857.*]

Chap. 12.

AN ACT in addition to an Act to incorporate the Berkshire Mutual Fire Insurance Company.

Be it enacted, &c., as follows :

Real estate not to
exceed \$5,000.

The Berkshire Mutual Fire Insurance Company is hereby authorized to purchase and hold real estate in Pittsfield, necessary for the transaction of its business, to an amount not exceeding five thousand dollars. [*Approved March 4, 1857.*]

Chap. 13.

AN ACT concerning the Police Court of the City of Worcester.

Be it enacted, &c., as follows :

Salary estab-
lished.

SECTION 1. The standing justice of the police court of the city of Worcester, shall receive a sum not exceeding fifteen hundred dollars annually, in full for his services in criminal prosecutions, the same to be paid according to the existing provisions of law.

Inconsistent acts
repealed.

SECTION 2. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

SECTION 3. This act shall take effect from and after its passage. [*Approved March 4, 1857.*]

AN ACT to incorporate the Boston Kansas Company.

Chap. 14.

Be it enacted, &c., as follows :

SECTION 1. Charles G. Nazro, John L. Emmons, Jonathan Ellis, Oliver Carter and John H. Thorndike, their associates, successors and assigns, are hereby made a corporation, by the name of the Boston Kansas Company, for the purposes of directing emigration westward, and aiding in providing accommodations for the emigrants after arriving at their place of destination; and for these purposes they have all the powers and privileges, and are subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECTION 2. The capital stock of said corporation shall not exceed one hundred thousand dollars: said capital stock may be invested in real or personal estate: *provided*, the said corporation shall not hold real estate in this Commonwealth to an amount exceeding twenty thousand dollars.

Capital stock \$100,000.

How invested.

Proviso.

SECTION 3. This act shall take effect from and after its passage. [*Approved March 4, 1857.*]

AN ACT to amend the twenty-first section of the eighty-third chapter of the Revised Statutes, relative to the Bonds of Registers of Probate. *Chap. 15.*

Be it enacted, &c., as follows :

The twenty-first section of the eighty-third chapter of the Revised Statutes is so amended, that the bond required of registers of probate shall be given to the county treasurer in a sum not less than one thousand, and not over ten thousand dollars, as the judge of probate for the county may order, and with sufficient sureties to be approved by said judge. [*Approved March 9, 1857.*]

Registers of probate to give bond, &c.

AN ACT concerning Probate Courts in the County of Berkshire.

Chap. 16.

Be it enacted, &c., as follows :

SECTION 1. There shall be a probate court for the county of Berkshire, at Lenox, on the first Tuesday of January, February, March, April, May, June, September, October and December; on the third Tuesday of July, and on the second Tuesday of November;—at Great Barrington on the Wednesday next after the first Tuesday in February and May, respectively; on Wednesday next after the third Tuesday in July, and on Wednesday next after the second Tuesday in November;—at Lanesborough, on the second Tuesday in January and October; on the fourth Tuesday in April and on the fourth Tuesday in July;—at Adams, on the Wednesday next after the second Tuesday in January and October,

Probate courts established.

and on the Wednesday next after the fourth Tuesday in April and July.

Acts repealed.

SECTION 2. So much of the fifty-fifth section of the eighty-third chapter of the Revised Statutes, as provides for the holding of probate courts in the county of Berkshire, chapter forty-first of the statutes passed in eighteen hundred and forty-nine, and chapter thirty-third of the statutes passed in eighteen hundred and fifty-five, are hereby repealed.

When to take effect.

SECTION 3. This act shall take effect on the first day of July next. [*Approved March 9, 1857.*]

Chap. 17. AN ACT in addition to an Act to incorporate the Medford and Charlestown Railroad Company.

Be it enacted, &c., as follows :

Act amended.

SECTION 1. The eighth section of the act of eighteen hundred and fifty-five, chapter three hundred and thirty-six, entitled, "An Act to incorporate the Medford and Charlestown Railroad Company," is hereby amended, by striking out the words "one hundred," which occur therein, and substituting therefor the word "fifty."

Time for acceptance of act extended.

SECTION 2. The time, within which the original act aforesaid shall be accepted by the selectmen and by the corporation, and within which the ten *per centum* shall be paid in, as provided by the twelfth section of the act to which this act is in addition, is hereby extended for the term of two years. [*Approved March 9, 1857.*]

Chap. 18. AN ACT to establish the City of Chelsea.

Be it enacted, &c., as follows :

City established.

SECTION 1. The inhabitants of the town of Chelsea shall continue to be a body politic and corporate, under the name of the City of Chelsea, and as such, shall have, exercise and enjoy, all the rights, immunities, powers and privileges, and shall be subject to all the duties and obligations now incumbent upon, and appertaining to, the said town, as a municipal corporation.

Government.

SECTION 2. The administration of all the fiscal, prudential and municipal affairs of the said city, with the government thereof, shall be vested in one municipal officer, to be styled the mayor; one council of eight, to be called the board of aldermen; and one council of twenty, to be called the common-council; which boards, in their joint capacity, shall be denominated the city council, and the members thereof shall be sworn to the faithful performance of their respective offices. A majority of each board shall constitute a quorum for doing business.

SECTION 3. It shall be the duty of the selectmen of Chelsea, as soon as may be after the passage of this act, and its acceptance by the inhabitants, as hereinafter provided, to divide the said town into four wards, to contain, as nearly as conveniently may be, an equal number of legal voters, which proceedings of the selectmen shall be subject to the revision of the city council, within one year after the passage of this act. And it shall be the duty of the city council, once in three years, and not oftener, to revise, and, if it be needful, to alter the said wards, and increase their number, in such manner as to preserve, as nearly as may be, an equal number of legal voters in each ward: *provided, however*, that in case the number of wards shall be increased, each ward shall continue to be entitled to elect two aldermen and five members of the common-council, any thing in the second section of this charter to the contrary notwithstanding.

City divided into wards.

City council to revise wards.

Proviso.

SECTION 4. On the first Monday in December, annually, there shall be chosen by ballot, in each of the said wards, a warden, clerk and three inspectors of elections, who shall be different persons, residents of wards in which they are chosen, who shall hold their offices for one year, and until others shall have been chosen and qualified in their stead. It shall be the duty of such wardens to preside at all ward meetings, with the power of moderators of town meetings; and if at any meeting the warden shall not be present, the clerk of such ward shall call the meeting to order, and preside until a warden, *pro tempore*, shall be chosen by ballot; and if both the warden and clerk shall be absent, either of the inspectors of said ward may call the meeting to order, and preside till a warden and clerk, *pro tempore*, shall be chosen as aforesaid; and in case of the absence of all of said officers, any legal voter present, resident in the ward, may preside until a warden, *pro tempore*, shall be chosen by ballot; and in like manner, whenever any ward officer may be absent, or neglect or refuse to perform his duties, his office shall be filled *pro tempore*. The clerk shall record all the proceedings, and certify the votes given, and deliver to his successor in office, all such records and journals, together with all other documents and papers held by him in the said capacity. It shall be the duty of the inspectors of elections to assist the warden in receiving, assorting and counting the votes. The warden, clerk and inspectors so chosen, shall respectively make oath or affirmation, faithfully and impartially to discharge their several duties relative to all elections, which oath may be administered by the clerk of

Election of city officers.

Duty of warden.

In absence of warden, clerk, and inspector, any legal voter may preside, &c.

Clerk to record proceedings, &c.

Duty of inspectors.

Oaths, how administered.

- such ward to the warden, and by the warden to the clerk and inspectors, or by any justice of the peace for the county of Suffolk; and the fact, or certificate that such oath has been taken, shall be entered on the record of the ward by the clerk thereof. All warrants for meetings of the citizens, for municipal purposes, to be held either in wards or in general meetings, shall be issued by the mayor and aldermen, and shall be in such form, and shall be served, executed and returned in such manner, and at such times, as the city council may, by any by-law, direct.
- Warrants for meetings, how issued, &c.
- Election of mayor, &c.
- SECTION 5. The mayor shall be elected by the qualified voters of the city at large, voting in their respective wards; and two aldermen, five common-councilmen, two school-committee-men and one overseer of the poor, shall be elected from and by the voters of each ward, being residents in the wards where elected. All the said officers shall be chosen by ballot, and shall hold their offices for one year from the first Monday in January, and until others shall be elected and qualified in their stead.
- Proceedings at elections.
- SECTION 6. On the first Monday in December, annually, the qualified voters in each ward shall give in their votes for mayor, aldermen, common-councilmen, school-committee-men and overseers of the poor, as provided in the preceding section; and all the votes so given shall be assorted, counted, declared and registered, in open ward meeting, by causing the names of persons voted for, and the number of votes given for each, to be written in the ward records, in words at length. The clerk of the ward, within twenty-four hours after election, shall deliver to the persons elected aldermen, common-councilmen, school-committee and overseers of the poor, certificates of their election, signed by the warden and clerk, and by a majority of the inspectors of elections, and shall deliver to the city clerk a copy of the records of such elections, certified in like manner: *provided*, that in all cases, the persons having the greatest number of votes for their respective offices, shall be deemed and declared to be elected; and if the choice of aldermen, common-councilmen, school-committee-men and overseers of the poor shall not be effected on that day, by reason of two or more persons having received an equal number of votes for the same office, the meeting may be adjourned, from time to time, to complete such election. The board of aldermen shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the person that shall have received the greatest number of votes for mayor, to be notified in writing, of his election; but if
- Certificates of election.
- Proviso.
- Mayor to be notified.

it shall appear that no person has been elected, by reason of two or more having received an equal number of votes, or if the person so elected shall refuse to accept the office, the board shall issue their warrants for a new election, and the same proceedings shall be had as are herein before provided for the choice of a mayor, and repeated, from time to time, until the mayor shall be chosen. In case of the decease or resignation of the mayor, or of his inability to perform the duties of his office, the boards of aldermen and common-council shall, respectively, by vote, declare that a vacancy exists, and the cause thereof; whereupon the two boards shall meet in convention and elect a mayor to fill such vacancy; and the mayor thus elected shall hold his office until the inability causing the vacancy shall be removed, or until a new election. The oath prescribed by this act shall be administered to the mayor by the city clerk, or any justice of the peace for the county of Suffolk. The aldermen and councilmen elect, shall, on the first Monday in January, at ten o'clock in the forenoon, meet in convention, when the oath required by this act shall be administered to the members of the two boards present, by the mayor, or by any justice of the peace for the county of Suffolk; and a certificate of such oath having been taken, shall be entered on a journal of the mayor and aldermen, and of the common-council, by their respective clerks. After the oath has been administered, as aforesaid, the two boards shall separate, and the common-council shall be organized by the choice of one of their own members as president, and also of a clerk, who shall be sworn to the faithful performance of their duties. In case of the absence of the mayor elect, on the first Monday in January, the city government shall organize itself in the manner herein before provided, and may proceed to business in the same manner as if the mayor was present; and the oath of office may be administered to the mayor at any time thereafter in a convention of the two branches. In the absence of the mayor, the board of aldermen may choose a chairman, *pro tempore*, who shall preside at joint meetings of the two boards. Each board shall keep a record of its own proceedings and judge of the election of its own members; and in case of failure of an election, or in case of any vacancy, declared by either board, or in case of any vacancy in the school-committee, or in the board of overseers of the poor, the mayor and aldermen shall order a new election.

Proceedings in case of failure to elect.

Vacancies, how filled.

Oath of office.

Organization of common-council.

Proceedings in absence of mayor.

Mayor *pro tem*.

Duty of mayor.

SECTION 7. The mayor thus chosen and qualified, shall be the chief executive officer of the said city; it shall be his

duty to be vigilant in causing the laws and regulations of the city to be enforced, and to exercise a general supervision over the conduct of all subordinate officers, and to cause their neglect of duty to be punished; he may call special meetings of the boards of aldermen and common-council, or either of them, when necessary in his opinion, by causing written notices to be left at the places of residence of the several members; he shall communicate, from time to time, to both of them, such information and recommend such measures as, in his opinion, the interests of the city may require; he shall preside in the board of aldermen, and in convention of the two boards, but shall have a casting vote only.

Executive power
of mayor and al-
dermen.

SECTION 8. The executive power of the said city generally, and the administration of the police, with all the powers heretofore vested in the selectmen of Chelsea, shall be vested in, and may be exercised by, the mayor and aldermen, as fully as if the same were herein specially enumerated. The mayor shall receive four hundred dollars per annum for his services, until otherwise determined by the city council; but the amount of such compensation shall not be increased or diminished during the term for which he shall have been elected. The members of the board of aldermen and common-council shall receive no compensation. The mayor and aldermen shall have full and exclusive power to appoint constables, and a city marshal and assistants, with the powers and duties of constables, and all other police officers, and the same to remove at pleasure. And the mayor and aldermen shall require any person who may be appointed marshal or constable of the city, to give bonds for the faithful discharge of the duties of the office, with such security and to such amount as they may deem reasonable and proper; upon which bonds the like proceedings and remedies may be had, as are by law provided in the case of constables' bonds taken by the selectmen of towns. All other powers now vested in the inhabitants of the said town, and all powers granted by this act, shall be vested in the mayor and aldermen and common-council of the said city, to be exercised by concurrent vote, each board to have a negative upon the other; but the city council shall, annually, as soon after their organization as may be convenient, elect by joint ballot, in convention, a city treasurer, collector of taxes, assessors, city clerk and firewards or engineers, who shall hold their offices until others are elected and qualified in their stead, and shall, in such manner as the said city council may determine, by any by-law made for the purpose, appoint or

Compensation.

Bonds required of
constables, &c.

Powers of mayor,
&c.

Appointment of
officers.

elect all subordinate officers not herein otherwise directed, for the ensuing year, define their duties and fix their compensations, in cases where such duties and compensations shall not be defined and fixed by the laws of the Commonwealth. In case any vacancy shall occur in any office, the election to which is made by the city council, said council shall have power to fill the same. All sittings of the mayor and aldermen, of the city council and of the common council, shall be public when they are not engaged in executive business. The city council shall take care that money shall not be paid from the treasury unless granted or appropriated; shall secure a just and prompt accountability, by requiring bonds, with sufficient penalty and sureties, from all persons intrusted with the receipt, custody, or disbursement of money; shall have the care and superintendence of city buildings, and the custody and management of all city property, with power to let or sell what may be legally let or sold; and to purchase property, real or personal, in the name and for the use of the city, whenever its interest or convenience may, in their judgment, require it. The city council shall, as often as once a year, cause to be published, for the use of the inhabitants, a particular account of receipts and expenditures, and a schedule of all the property and debts of the city.

Sittings to be public.

Safe keeping of city property.

SECTION 9. In all cases in which appointments are directed to be made by the mayor and aldermen, the mayor shall have the exclusive power of nomination, being subject, however, to confirmation or rejection by the board of aldermen; but if a person so nominated shall be rejected, it shall be the duty of the mayor to make another nomination within one month from the time of such rejection. No person shall be eligible to any office of emolument the salary of which is payable out of the city treasury, who, at the time of such appointment, shall be a member of the board of aldermen or of the common council.

Mayor to nominate, &c.

SECTION 10. The city clerk shall also be clerk of the board of aldermen, and shall be sworn to the faithful performance of his duties. He shall perform such duties as shall be prescribed by the board of aldermen; and he shall perform all the duties, and exercise all the powers by law now incumbent upon, or vested in, the town clerk of the town of Chelsea, and may be removed at the pleasure of the city council.

Duty of city clerk.

SECTION 11. The assessors to be chosen, as herein before provided, shall constitute the board of assessors, and shall exercise the same powers, and be subject to the same duties

Assessors' powers and duties.

and liabilities, that the assessors in the several towns in the Commonwealth may exercise or are subject to under existing laws, and shall be sworn to the faithful performance of their duty. All taxes shall be assessed, apportioned and collected, in the manner prescribed by the laws of this Commonwealth: *provided, however*, that the city council may establish further or additional provisions for the collection thereof.

Taxes.

Act repealed.

Fire department.

SECTION 12. An act establishing the fire department in the town of Chelsea, passed March twentieth, in the year one thousand eight hundred and forty-three, is hereby repealed. The city council of the city of Chelsea may establish a fire department for said city, to consist of a chief engineer, and so many assistant-engineers, and so many enginemen, hosemen and hook and ladder men, as the city council by ordinance shall, from time to time, prescribe; and said city council shall have authority to make such provisions in regard to the time and mode of appointment, and the occasion and mode of removals, of either of such officers or members, to make such requisitions in respect to their qualifications and period of service, to define their office and duties, to fix and pay such compensation for their services, and in general to make such regulations in regard to their conduct and government, and to the management and conduct of fires, and persons attending fires, subject to the penalties provided for the breach of the city ordinances, as they shall deem expedient: *provided*, that the appointment of enginemen, hosemen and hook and ladder men, shall be made by the mayor and aldermen exclusively. The engineers and other officers of the fire department, appointed as aforesaid, shall have the same authority in regard to the prevention and extinguishment of fires, and the performance of the other offices and duties now incumbent upon firewards, as are conferred upon firewards by the statutes now in force. They shall also have authority, in compliance with any ordinance of said city, to make an examination of places where shavings and other combustible materials are collected or deposited, and to require the removal of such materials, or the adoption of suitable safeguards against fire. And the said city council are hereby authorized to make suitable ordinances upon the latter subject, under the penalties enacted in the city charter.

Proviso.

Duty of engineers

List of jurors.

SECTION 13. The list of jurors shall be prepared by the mayor and aldermen, in the same manner as is now required, by the laws of this Commonwealth, to be done by the selectmen within and for their respective towns; and the list, when made out by the mayor and aldermen, shall be sub-

mitted to the common council for concurrent revision or amendment. The mayor and aldermen and city clerk shall, severally, have and exercise all the powers and duties with regard to the drawing of jurors in the city, and all other matters relating to jurors therein, which are, by the laws of this Commonwealth, required to be performed by the selectmen and town clerks in their respective towns; and all *venires* for jurors to be returned from Chelsea, shall be served on the said mayor and aldermen.

Drawing of jurors.

SECTION 14. The mayor and aldermen, with the concurrent vote of the common-council, shall have exclusive power to lay out, alter or discontinue, any street or town way, to establish the grade thereof, and to estimate the damages any individual or party may sustain thereby; and the person or party dissatisfied with the decision of the city council, in the estimate of damages, may make complaint to the county commissioners of the county of Middlesex, at any meeting held within one year after such decision, whereupon the same proceedings shall be had as are now by law provided in cases where persons or parties are aggrieved by the assessment of damages by the selectmen, in the twenty-fourth chapter of the Revised Statutes.

May lay out streets, &c.

SECTION 15. The mayor and aldermen, with the concurrent vote of the common-council, shall have the power to cause drains and common sewers to be laid down through any street or private lands, paying the owners such damage as they may sustain thereby, and to require all persons to pay a reasonable sum for the privilege of opening any drain into such public drain or common sewer; and the city council may make by-laws, with suitable penalties, for the inspection, survey, measurement and sale of lumber, wood, coal and bark, brought into the city for sale.

May dig drains, &c.

SECTION 16. All power and authority now vested in the board of health for the town of Chelsea, or in the selectmen thereof, shall be transferred to, and vested in, the city council, to be by them exercised in such manner as they may deem expedient.

Measurement of wood, &c.

Health officers.

SECTION 17. The mayor and aldermen shall, in each year, issue their warrant for calling meetings for the election of the whole number of representatives to the general court, to which the said city is by law entitled, and the number shall be specified in the warrant.

Election of representatives.

SECTION 18. All elections for county, state and United States officers, who are voted for by the people, shall be held at meetings of the citizens qualified to vote in such elections, in their respective wards, at the time fixed by law for these

County, state, and federal officers.

elections respectively; and at such meetings all the votes given for such officers, respectively, shall be assorted, counted, declared and registered, in open ward meeting, by causing the names of all persons voted for, and the number of votes given for each, to be written in the ward records in words at length. The ward clerk, shall, forthwith, deliver to the city clerk a certified copy of the record of such elections. The city clerk shall, forthwith, record such returns, and the mayor and aldermen shall, within two days after every such election, examine and compare all such returns, and make out a certificate of the result of such elections, to be signed by the mayor and a majority of the aldermen, and also by the city clerk, which shall be transmitted or delivered in the same manner as similar returns are by law directed to be made by selectmen of towns; and in all elections for representatives to the general court, in case the whole number proposed to be elected shall not be legally chosen, the mayor and aldermen shall forthwith issue their warrant for a new election, conformably to the provisions of the constitution and the laws of the Commonwealth.

List of voters.

SECTION 19. Prior to every election, the mayor and aldermen shall make out lists of all the citizens of each ward, qualified to vote in such elections, in the manner in which selectmen of towns are required to make out lists of voters; and for that purpose they shall have full access to the assessors' books and lists, and be entitled to the assistance of all assessors and city officers; and they shall deliver the said lists, so prepared and corrected, to the clerks of the said wards, to be used at such elections; and shall cause copies thereof to be posted up in not less than three places in said wards, at least seven days prior to such elections; and no person shall be entitled to vote whose name is not borne on such lists: *provided*, that any person whose name shall not be borne on the list of the ward in which he is entitled to vote, when it shall be placed in the hands of the clerk of said ward, shall have the right to have his name entered thereon at any time thereafter, and before the closing of the polls, upon presenting to the ward officers a certificate signed by the mayor or city clerk, setting forth his right to have his name thus entered.

Provided, &c.

Meetings of the citizens.

SECTION 20. General meetings of the citizens qualified to vote, may, from time to time, be held, to consult upon the public good, to give instructions to their representatives, and to take all lawful measures to obtain redress for any grievances, according to the right secured to the people by the Constitution of this Commonwealth; and such meetings

may, and shall be duly warned by the mayor and aldermen, upon the requisition of fifty qualified voters.

SECTION 21. The city council shall have power to make all such salutary and needful by-laws as towns, by the laws of this Commonwealth, have power to make and establish, and to annex penalties, not exceeding twenty dollars, for the breach thereof: which by-laws shall take effect and be in force from and after the time therein respectively limited, without the sanction of any court or other authority whatever: *provided*, that all such by-laws or ordinances shall be presented to the mayor for his approval, which, if he approve, he shall sign, if not, he shall return to the city council, within one week, with his objections, for a reviewal, and if again passed by a majority of each board, the same shall become a law; and *provided, also*, that all laws and regulations now in force in the town of Chelsea, shall, until they shall expire by their own limitation, or be revised or repealed by the city council, remain in force; and all fines and forfeitures for the breach of any by-law or ordinance, shall be paid into the city treasury.

SECTION 22. All fines, forfeitures and penalties, accruing for the breach of any by-laws of the city of Chelsea, or of the ordinances of the city council, or of any of the orders of the mayor and aldermen, may be prosecuted for and recovered before the police court of the said city of Chelsea, by complaint or information, in the same manner in which other criminal offences are now prosecuted before the police courts within this Commonwealth; reserving, however, in all cases, to the party complained of and prosecuted, the right of appeal to the municipal court of the city of Boston, for the county of Suffolk, to the term then next to be held, from the judgment and sentence of the police court, as provided in the thirty-first chapter of the laws of the Commonwealth passed in the year one thousand eight hundred and forty-nine; and it shall be sufficient in all such prosecutions to set forth in the complaint the offence fully, plainly, substantially and formally; and it shall not be necessary to set forth such by-law, ordinance, or order, or any part thereof. All fines, forfeitures and penalties, so recovered and paid, shall be paid to the treasurer of the city of Chelsea, and shall inure to such uses as said city council shall direct. When any person upon any conviction before the police court for any breach of any by-law of the said city of Chelsea, or any of the ordinances of the city council, or of any of the orders of the mayor and aldermen, shall be sentenced to pay a fine, or any penalty or forfeiture provided by any

By-laws.

Proviso.

Provided, also.

Fines, &c., how recovered.

Right of appeal.

Complaints, how set forth.

Fines paid to city treasurer.

Refusal to pay fine, how punished.

such by-law, ordinance or order, and shall fail to pay the same, or, upon claiming an appeal, shall fail to recognize for his appearance at the court appealed to, there to prosecute his appeal, and to abide the sentence or order of the court thereon, and in the meantime to keep the peace and be of good behavior, he shall be committed, until he shall pay such fine, penalty or forfeiture, or be otherwise discharged according to law. The provisions of this section shall also apply to all prosecutions founded on the by-laws or ordinances of the town of Chelsea, which may continue in force after this act shall go into operation ; and all the powers of the police court already established shall be continued to it.

Applies to town by-laws.

First organization of city government.

SECTION 23. For the purpose of organizing the system of government hereby established, and putting the same into operation, in the first instance, the selectmen of the town of Chelsea, for the time being, shall, within thirty days after the acceptance of this act, issue their warrants, seven days at least, previous to the day so appointed for calling meetings of the citizens, at such place and hour as they may deem expedient, for the purpose of choosing a warden, clerk and inspectors for each ward, and all other officers whose election is provided for in the preceding sections of this act ; and the transcripts of the records of each ward, specifying the votes given for the several officers aforesaid, certified by the warden and the clerk of each ward, at such first meeting, shall be returned to the said selectmen, whose duty it shall be to examine and compare the same ; and in case the said elections should not be completed at the first meeting, then to issue new warrants, until such elections shall be completed, and to give notice thereof, in the manner herein before provided, to the several persons elected. And at the said first meeting, any inhabitant of said ward, being a legal voter, may call the citizens to order and preside until a warden shall have been chosen. And at said first meeting a list of voters in each ward, prepared and corrected by the selectmen for the time being, shall be delivered to the clerk of each ward, when elected, to be used as herein before provided. And the selectmen shall appoint such time for the first meeting of the city council as they may judge proper, after the choice of the city officers as aforesaid, or a majority of the members of both branches, in the year one thousand eight hundred and fifty-seven, and shall also fix upon the place and hour of the first meeting, and a written notice thereof shall be sent, by the said selectmen, to the place of abode of each of the city officers chosen, as provided in this section. And after this first election of city officers, and this

First meeting, how organized.

Subsequent organizations.

first meeting for the organization of the city council, as in this section is provided, the day of holding the annual elections, and the day and hour for the meeting of the city council for the purpose of organization, shall remain, as provided in the sixth section of this act. And it shall be the duty of the city council, immediately after the first organization, to elect all necessary city officers, who shall hold their offices respectively, until others shall be chosen and qualified in their stead.

SECTION 24. All officers of the town of Chelsea having the care and custody of any records, papers or muniments of property belonging to the said town, shall deliver the same to the city clerk, within one week after his entering upon the duties of his office. Delivery of records, &c.

SECTION 25. The annual town meeting of the town of Chelsea, which by law is to be held in March, is hereby suspended, and all town officers now in office shall hold their places until this act shall take effect, and their successors are chosen and qualified. In case this act shall not be accepted by the inhabitants of the town of Chelsea, as is hereinafter provided, the selectmen shall issue their warrant according to law, for holding the annual town meeting, in which all the proceedings shall be the same as if this act had not been passed; and the warrant for calling the meeting shall be issued within seven days after the rejection of this act. Town meeting suspended, &c.
Proceedings in case this act is not accepted.

SECTION 26. Nothing in this act shall be so construed as to prevent the legislature from altering or amending the same whenever they shall deem it expedient. Legislature may amend.

SECTION 27. This act shall be void, unless the inhabitants of the town of Chelsea, at a legal town meeting called for that purpose, and held within twenty days after the passage of this act, at which the selectmen shall preside, and the check list be used in the same manner as at meetings called to choose State officers, and the polls be kept open at least six hours, shall, by a vote of a majority of the voters present and voting thereon, yea or nay, by a written ballot, determine to adopt the same. Act void unless, &c.

SECTION 28. All acts and parts of acts inconsistent with this act, are hereby repealed. Inconsistent acts repealed.

SECTION 29. This act shall go into operation from and after its passage. [*Approved March 13, 1857.*]

Chap. 19. AN ACT to amend the Charter of the John Hancock Bank, of Springfield.
Be it enacted, &c., as follows :

Location may be changed.

So much of the charter of the John Hancock Bank, as restricts the location of its building to State Street, in the city of Springfield, is hereby repealed; and said bank may change its location to a more convenient and central part of said city: *provided*, that at a legal meeting called for the purpose, said change shall be adopted, by a vote of a majority of the stockholders present and voting thereon. [*Approved March 13, 1857.*]

Proviso.

Chap. 20. AN ACT to incorporate the Dorchester Athenæum.
Be it enacted, &c., as follows :

Corporators.

SECTION 1. John G. Nazro, A. H. White, M. O. Barry, Ebenezer Clapp, junior, Jacob Davis, Amasa Pray and John J. May, their associates and successors, are hereby made a corporation, by the name of the Dorchester Athenæum, to be established in the town of Dorchester, in the county of Norfolk, for the purpose of establishing and maintaining a library and reading-room, advancing useful arts and sciences, and promoting public instruction, by lectures and otherwise; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Name.

Purpose.

Privileges, restrictions, &c.

Real and personal property not to exceed \$40,000.

SECTION 2. Said corporation may hold real and personal property, to an amount not exceeding forty thousand dollars, the income of which shall be devoted to the purposes aforesaid. [*Approved March 14, 1857.*]

Chap. 21. AN ACT to continue in force an Act to incorporate the Essex Mutual Fire Insurance Company.

Be it enacted, &c., as follows :

Corporation continued 28 years.

The act to incorporate the Essex Mutual Fire Insurance Company, passed June eleventh, in the year one thousand eight hundred and twenty-nine, shall continue and remain in force for the term of twenty-eight years, from the eleventh day of June, in the year one thousand eight hundred and fifty-seven; and the said corporation shall be continued through that term; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and all other statutes now in force, and such as may hereafter be passed relating to mutual fire insurance companies. [*Approved March 16, 1857.*]

Privileges, restrictions, &c.

AN ACT in addition to an Act to incorporate the Proprietors of Lawrence Bridge. *Chap. 22.*

Be it enacted, &c., as follows :

The “Proprietors of Lawrence Bridge,” a corporation Rates of toll. established by an act of the legislature of the year eighteen hundred and fifty-four, chapter two hundred and sixty-five, are hereby authorized, from and after the first day of May next, to demand and receive, at the said bridge, the following rates of toll, instead of the rates heretofore established, to wit:—

For each horse and rider, four cents ; for each horse or ox led, two cents ; for each cart, farm or market wagon, truck or sled, drawn by one horse, five cents ; for each additional horse, three cents ; for each horse and chaise, chair, sulky, cab, sleigh, buggy, or other pleasure wagon or vehicle, eight cents ; for each omnibus, coach, carryall, sleigh or other pleasure vehicle, drawn by two horses, twelve cents ; for each additional horse, three cents ; for each cart, wagon, or sled, drawn by two oxen, seven cents ; for each additional yoke of oxen, four cents ; for droves of neat cattle or horses, one-half cent each ; for droves of swine or sheep, one-fourth cent each. [*Approved March 17, 1857.*]

AN ACT to authorize William G. Johnson to build a Wharf, in the Town of Rowley. *Chap. 23.*

Be it enacted, &c., as follows :

William G. Johnson is hereby authorized to construct and Wharf in Rowley. maintain a wharf seventy-five feet wide, extending twenty-five feet toward the channel of Rowley River, from the ordinary high-water mark, on land of the said Johnson, in the town of Rowley, between the Eastern Railroad, on the west, and land of Thomas Cressey, on the east,—to be called Johnson’s Wharf ; and shall have the right to lay vessels at the end and Rights, &c. sides of said wharf, and receive wharfage and dockage therefor : *provided*, that this grant shall not interfere with the Proviso. legal rights of any person. [*Approved March 17, 1857.*]

AN ACT to amend the four hundred and seventy-eighth chapter of the Acts of eighteen hundred and fifty-five. *Chap. 24.*

Be it enacted, &c., as follows :

The four hundred and seventy-eighth chapter of the acts Act amended. of eighteen hundred and fifty-five, is hereby amended, by striking out from the first section thereof, the following words, “for the purpose of buying, sawing or manufacturing lumber or staves, or of mining or quarrying.” [*Approved March 17, 1857.*]

Chap. 25. AN ACT to incorporate the Fall River and Warren Railroad Company.

Be it enacted, &c., as follows :

Corporators. SECTION 1. Joseph G. Luther, William Pierce, William Wilber, Mason Brown, Benjamin Robinson, their associates and successors, are hereby made a corporation by the name of the Fall River and Warren Railroad Company; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and in that part of the thirty-ninth chapter of said statutes which relates to railroad corporations, and in the several statutes subsequently passed, relating to railroad corporations.

Privileges, restrictions, &c.

May construct railroad. SECTION 2. The said company is hereby authorized and empowered to locate, construct, fully complete and maintain a railroad, with one or more tracks, commencing at the line of the State of Rhode Island, in the town of Swanzev, thence running in an easterly direction, through the towns of Swanzev and Somerset, to the city of Fall River.

Capital stock, 1,000 shares, of \$100 each.

No shares to be issued under par. SECTION 3. The capital stock of said company shall consist of one thousand shares of one hundred dollars each, and no assessment shall be laid thereon of a greater amount in the whole, than one hundred dollars on each share, and no shares shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued. And the said company may take, purchase and hold, such real estate, and may build, purchase and hold, such engines, cars, materials and other things, as may be necessary for the use of the said railroad, and for the transportation of persons, goods and merchandise.

May establish a ferry. SECTION 4. Said company is hereby authorized to establish and maintain a ferry, between the terminus of their railroad, on the northerly side of Taunton River, and the city of Fall River; and said company may receive such tolls for ferriage on the same, as the county commissioners of Bristol county shall, from time to time, designate.

If not constructed in four years, act to be void. SECTION 5. If the location of the said railroad be not filed according to law, within two years, or if the said railroad shall not be constructed and completed, with at least one track, within four years from the passage of this act, then this act shall be void.

May be used by other roads. SECTION 6. The legislature may authorize any company to enter, with another railroad, upon and use the said Fall River and Warren Railroad, or any part thereof, paying therefor such a rate of toll or compensation as the legislature may, from time to time, prescribe, or as may be fixed

by any general law of this Commonwealth, and complying with such rules and regulations as may be established by the said Fall River and Warren Railroad Company.

SECTION 7. The legislature may, from time to time, reduce the rate of tolls or other profits upon the said railroad; but the tolls shall not, without the consent of said company, be so reduced as to produce, with the said profits, less than ten per cent. per annum. Rate of tolls

SECTION 8. The said company is hereby authorized to unite with a railroad company which may be incorporated by the State of Rhode Island, to build a railroad, connecting the western terminus of the railroad, hereby authorized, with the compact part of the town of Warren, in said State of Rhode Island; and when the said company shall have become so united, the stockholders of one company shall become stockholders of the other company, and the two companies shall constitute one corporation, by such name as the united corporation may adopt; and the franchises, property, power and privileges, acquired under the authority of the said States, respectively, shall be held and enjoyed by all the stockholders in proportion to the number of shares or amount of property held by them respectively, in either or both of the said corporations. May unite with another road.

SECTION 9. One or more of the directors, or other officers of the said united corporations, shall, at all times, be an inhabitant of this Commonwealth, on whom process against the said company may be legally served; and the said company shall be held to answer in the jurisdiction where service is made and the process is returnable. One or more directors of this Commonwealth.

SECTION 10. The said company shall keep separate accounts of its expenditures in Massachusetts and Rhode Island, respectively; and two commissioners shall be appointed, one by the governor of this State, and the other by the governor of the State of Rhode Island, if the said State of Rhode Island shall thereto agree, to hold their offices for the term of four years, and to be reasonably compensated by the said company, who shall decide what portion of all expenditures of the said company, and of the receipts and profits, properly pertain to that part of the road lying in the said States, respectively; and the annual report required to be made to the legislature of this Commonwealth, shall be approved by the said commissioners. Shall keep separate accounts. Commissioners appointed, &c.

SECTION 11. The said company and the stockholders therein, so far as the road is situated in Massachusetts, shall be subject to all the duties and liabilities created by the provisions of the laws of this Commonwealth, to the same Liabilities of Massachusetts stockholders.

extent as they would have been had no union of the said companies taken place.

When to take effect.

SECTION 12. The provisions contained in the four preceding sections of this act, and all provisions of this act which contemplate a union of the said companies, shall not take effect until they shall have been accepted by the stockholders of the said two corporations, respectively, at legal meetings called for that purpose.

Certificate to be filed, &c.

SECTION 13. The said railroad company shall not commence the construction of its road in this State, until a certificate shall have been filed in the office of the secretary of the Commonwealth, subscribed and sworn to by the president of the said company and a majority of the directors thereof, stating that all of the stock named in its charter has been subscribed for by responsible parties, and that twenty per cent. of the par value of each and every share of the said stock has been actually paid into the treasury of the company. [*Approved March 17, 1857.*]

Chap. 26. AN ACT for the better establishment of the Police Court of the City of Springfield.

Be it enacted, &c., as follows :

Salary of justice.

SECTION 1. The standing justice of the police court of the city of Springfield, shall receive an annual salary of one thousand dollars; and said salary shall be paid in equal quarterly payments, out of the treasury of said city of Springfield, and shall be in full compensation for all services in criminal cases, which by law he is required to perform as such justice.

Special justice to act in case of vacancy.

SECTION 2. In case of a vacancy in the office of said standing justice, the special justice whose commission is the oldest, shall have all the powers and perform all the duties of the standing justice, till such vacancy shall be filled, and during such vacancy shall receive the same compensation, and shall pay the other special justice in the same manner as the standing justice would if in office.

Compensation.

Inconsistent acts repealed.

SECTION 3. All acts and parts of acts, inconsistent herewith, are hereby repealed.

SECTION 4. This act shall take effect from and after its passage. [*Approved March 21, 1857.*]

Chap. 27. AN ACT authorizing the Boston Submarine and Wrecking Company to change its Name and to increase its Capital Stock.

Be it enacted, &c., as follows :

Authorized to change name.

SECTION 1. The Boston Submarine and Wrecking Company is hereby authorized, by vote of the corporation, to take,

instead of its present corporate name, the name of Boston Relief and Submarine Company.

SECTION 2. As soon as said corporation shall adopt said new name by vote, as aforesaid, all the property, franchises, powers, rights and privileges, granted, belonging or appertaining to, or enjoyed, or held by, and all duties, liabilities, restrictions and obligations, imposed upon or appertaining to said corporation, shall thereupon be held, and enjoyed, and assumed by and appertain to, and be imposed upon said corporation under the said name of Boston Relief and Submarine Company, in the same manner, as fully and effectually, to all intents and purposes, as if the said new name had been set forth in the charter of said corporation, and the name of said corporation had never been changed.

Duties, &c., of corporation under new name.

SECTION 3. The said corporation, in addition to the powers heretofore granted, shall have the right to conduct every description of submarine operations, and manufacture, and vend Gwinne's Patent Pump and Pumping Engine, and the submarine apparatus required for purposes of such submarine operations, and to hold real estate for that purpose, not to exceed in value, seventy five thousand dollars.

Additional powers.

SECTION 4. The said corporation is hereby authorized and empowered to increase its capital stock to an amount not exceeding five hundred thousand dollars, by creating and issuing, from time to time, at their discretion, an additional number of shares; and no portion of the stock, issued under the provisions of this act, shall be issued at less than the par value of the shares first issued, to be actually paid in on each.

Capital increased not exceeding \$500,000.

No shares to be issued under par.

SECTION 5. This act shall take effect from and after its passage. [*Approved March 21, 1857.*]

AN ACT concerning the Millbury and Southbridge Railroad Company. *Chap. 28.*
Be it enacted, &c., as follows :

SECTION 1. The time, within which the Millbury and Southbridge Railroad Company may construct their railroad, is hereby extended one year from the time now allowed by law.

Time for construction extended one year.

SECTION 2. The fifty-eighth section of the thirty-ninth chapter of the Revised Statutes is, in this case, hereby extended, so as to allow all persons, whose lands or other property have been taken for the purposes of this road, one year after the entire road is completed and opened for use, within which to apply to the county commissioners to estimate their damages.

Time for estimating damages extended.

SECTION 3. This act shall take effect from and after its passage. [*Approved March 21, 1857.*]

	AN ACT to incorporate the Massasoit Insurance Company. <i>Be it enacted, &c., as follows :</i>
Chap. 29.	
Corporators.	SECTION 1. Henry Fuller, junior, Stephen C. Bemis and Augustus L. Soule, their associates and successors, are hereby made a corporation, for the term of twenty years from the passage of this act, by the name of the Massasoit Insurance Company, to be located in the city of Springfield, for the purpose of making insurance against losses by fire, and against maritime losses ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes, and all other general laws that are now, or may hereafter be in force relative to insurance companies.
Duration.	
Name.	
Purpose.	
Privileges, restrictions, &c.	
Capital stock, \$100,000.	SECTION 2. The said corporation shall have a capital stock of one hundred thousand dollars, divided into shares of one hundred dollars each, with liberty to pay in and increase the same to any amount not exceeding two hundred thousand dollars, and may hold real estate for its use, not exceeding ten thousand dollars.
May increase to \$200,000.	
Hold real estate, \$10,000.	
Issue of policies.	SECTION 3. The said company may issue policies whenever fifty thousand dollars of the capital stock shall be paid in : <i>provided</i> , that no more than ten per centum of the capital paid in shall be taken on any one risk. [<i>Approved March 25, 1857.</i>]
Proviso.	

Chap. 30. AN ACT to amend chapter fifty-five of the Revised Statutes, relating to Fisheries.

Be it enacted, &c., as follows :

Penalty for unlawful fishing.	SECTION 1. No person shall take or catch any pickerel or trout, in any rivers, streams or ponds, in any other manner than by hooks and lines ; and no person shall take any pickerel, in any rivers, streams or ponds, from the first day of December to the first day of May ; and every person offending against any of the provisions of this act, shall forfeit the sum of one dollar for every pickerel or trout by him taken contrary to the said provisions, to be recovered by indictment, or on complaint before any justice of the peace ; and one-half of said fine shall belong to the complainant, and the other half to the Commonwealth : <i>provided</i> , that the inhabitants of any town may, at their annual meeting, suspend, in whole or in part, the provisions of this act, so far as respects such town, for any time not exceeding one year.
Proviso.	

SECTION 2. The second section of chapter fifty-five of the Revised Statutes, relating to fisheries, is hereby repealed. [*Approved March 25, 1857.*]

AN ACT in addition to an act to incorporate the Massachusetts Sabbath School Society. *Chap. 31.*

Be it enacted, &c., as follows :

SECTION 1. The Massachusetts Sabbath School Society may take and hold real or personal estate, to an amount not exceeding fifty thousand dollars, in addition to the amount they are now authorized by law to take and hold. May hold additional estate, not exceeding \$50,000.

SECTION 2. This act shall take effect from and after its passage. [*Approved March 28, 1857.*]

AN ACT concerning the Boston and New York Central Railroad Company. *Chap. 32.*

Be it enacted, &c., as follows :

SECTION 1. The time, within which the Boston and New York Central Railroad Company may construct the middle and eastern section of that part of their railroad which was incorporated under the name of the Southbridge and Blackstone Railroad, is hereby extended to one year from the time now allowed by law. Time for construction extended one year.

SECTION 2. The fifty-eighth section of the thirty-ninth chapter of the Revised Statutes is, in this case, hereby extended, so as to allow all persons whose lands or other property have been taken for the purposes of this road, one year after the entire road is completed and opened for use, within which to apply to the county commissioners to estimate their damages. Time for estimating damages extended.

SECTION 3. This act shall take effect from and after its passage. [*Approved March 28, 1857.*]

AN ACT to authorize James G. Tarr and others to extend their Wharf. *Chap. 33.*

Be it enacted, &c., as follows :

SECTION 1. James G. Tarr, Andrew W. Dodd and Stephen Dodd are hereby authorized to extend their wharf, in Smith's Cove, (so called,) in the harbor of Gloucester, a distance of one hundred feet in a south-easterly direction: *provided*, that this grant shall in nowise impair the legal rights of any person or corporation. May extend wharf. Proviso.

SECTION 2. This act shall take effect from and after its passage. [*Approved March 28, 1857.*]

AN ACT in addition to an Act relating to Banns of Marriage. *Chap. 34.*

Be it enacted, &c., as follows :

If any person, applying to any clerk or registrar of any city or town for a certificate of intention of marriage, shall wilfully practice any deception, by making any false statement in relation to the age or residence of either of the Penalty for making false statement.

parties intending marriage, or in relation to the parent, master or guardian of either of the said parties, such person shall be subject to a penalty of not more than two hundred dollars, to be recovered by indictment, to the use of the Commonwealth, in any court competent to try the same. [Approved March 28, 1857.]

Chap. 35. AN ACT to establish a Board of Directors of the Public Institutions for the City of Boston and for the County of Suffolk.

Be it enacted, &c., as follows :

Twelve directors for public institutions.

SECTION 1. There shall be elected by the city council of the city of Boston, by concurrent vote, twelve suitable persons, resident citizens of the said city, who shall constitute a board of directors for the houses of industry and reformation, and the lunatic hospital within said city, and the house of correction for the county of Suffolk. The said board shall be styled, "The Board of Directors for Public Institutions," and shall have all the authority and powers, and be subject to all the duties now conferred and imposed by virtue of existing statutes, respectively, upon the directors of said houses of industry and reformation, and the overseers of said house of correction; together with such other powers and duties in connection with said lunatic hospital, and the management of the business thereof, as the said city council may, by ordinance, and in conformity to the statutes of the Commonwealth, provide. A majority of said board of directors shall constitute a quorum for the transaction of business; and upon the election of the first board, as provided in the fourth section of this act, said city council shall be discharged from all obligations of statutes now existing, requiring the election or appointment of directors or overseers for either of said institutions.

Powers, duties, &c.

City council discharged from obligations.

Powers as to insane persons.

SECTION 2. The said board of directors shall also have the same powers, as to the discharge of insane persons from confinement, as are now vested in the mayor and board of aldermen of said city.

City council may pass ordinances, &c.

SECTION 3. The said city council shall have power to pass such ordinances, not inconsistent herewith, or repugnant to other laws of this Commonwealth, as to the duties and authority of said board of directors, and providing for their reasonable compensation, as it may, from time to time, deem expedient and necessary.

Election of first board of directors.

SECTION 4. Said city council shall proceed, after the acceptance of this act, to elect by ballot, nine citizens at large, three of whom shall be elected and hold their office for three years, three for two years, and three for one year;

and these persons, together with one member from the board of aldermen, and two members from the common-council of said city, to be elected for one year by the said city council, shall constitute the first board of directors under this act: and thereafter, annually, the said city council shall elect, in the manner aforesaid, three citizens of said city, at large, who shall hold their office in said board of directors for three years, and one member of the board of aldermen, and two members of the common-council of said city, who shall hold their office in said board of directors for one year. Each of the said directors, so elected under this act, shall, in addition to his said term, hold his office until another is elected in his stead; and the said city council shall have power to remove members from said board of directors for cause shown, and to fill all vacancies which may occur in the same.

Subsequent elections.

Power to remove members and fill vacancies.

SECTION 5. This act shall not go into effect, unless accepted by said city council within six months from its passage, and shall take effect directly upon and after such acceptance.

When to take effect.

SECTION 6. All acts and parts of acts, inconsistent herewith, are hereby repealed. [*Approved March 28, 1857.*]

Inconsistent acts repealed.

AN ACT to change the place of holding the September Meeting of the County Commissioners of Middlesex. *Chap. 36.*

Be it enacted, &c., as follows:

SECTION 1. The meeting of the county commissioners for the county of Middlesex, now holden at Concord, in said county, on the first Tuesday of September in each year, shall hereafter be holden at Lowell, in said county, on the first Tuesday of September, annually.

Place of holding meetings changed.

SECTION 2. The same proceedings shall be had at the said meeting, on all matters which now are or may be pending before said commissioners, as would have been had if the said alteration had not been made.

Proceedings on pending matters.

SECTION 3. This act shall take effect from and after its passage. [*Approved March 28, 1857.*]

AN ACT to repeal certain Acts concerning persons under Sentence of Death. *Chap. 37.*

Be it enacted, &c., as follows:

SECTION 1. The two hundred and seventy-fourth chapter of the acts of the year eighteen hundred and fifty-two, entitled, "An Act concerning persons under Sentence of Death," and the two hundred and eighty-sixth chapter of the acts of the year eighteen hundred and fifty-three, entitled, "An Act to amend an Act concerning Persons under Sentence of Death,"

Acts repealed

Proviso.

are hereby repealed: *provided*, that this act shall not affect any prosecution pending at the time of its passage, or any rights acquired, or liabilities incurred under any existing law, on account of any thing done before this repeal takes effect.

SECTION 2. This act shall take effect from and after its passage. [*Approved March 28, 1857.*]

Chap. 38.

AN ACT to amend "An Act concerning the Indexing of Deeds."

Be it enacted, &c., as follows:

Act amended.

The second section of chapter two hundred and ninety-two of the Acts passed in the year one thousand eight hundred and fifty-six, entitled, "An Act concerning the Indexing of Deeds," is hereby so amended, that the county commissioners in each county, shall have power, whenever they shall deem it expedient, to extend the time within which the copies of indexes required by said section, shall be made: *provided, however*, that such copies shall in all cases be made for each year, within the next succeeding year. [*Approved March 31, 1857.*]

Proviso.

Chap. 39.

AN ACT to extend the time within which to locate and construct the New York and Boston Railroad.

Be it enacted, &c., as follows:

Time for location and construction extended.

SECTION 1. The time for locating and constructing the New York and Boston Railroad, is hereby extended one year beyond the time now required by law.

Time for assessing damages extended.

SECTION 2. The fifty-eighth section of the thirty-ninth chapter of the Revised Statutes, is, in this case, hereby extended, so as to allow all persons, whose lands or other property have been taken for the purposes of this road, one year, after the entire road is completed and opened for use, within which to apply to the county commissioners to estimate their damages.

SECTION 3. This act shall take effect from and after its passage. [*Approved March 31, 1857.*]

Chap. 40.

AN ACT in relation to Public Reports and Documents.

Be it enacted, &c., as follows:

Annual reports of public officers, &c., to be made to secretary of Commonwealth.

SECTION 1. All annual reports of public officers, boards or institutions, which are now required by law or custom to be made to the legislature, or to his excellency the governor, to be by him transmitted to the legislature, or to be made to the governor and council, shall hereafter include the year ending on the thirtieth day of September,

annually, and shall be submitted to the secretary of the Commonwealth on or before the fifteenth day of October, annually; and the secretary shall cause said reports to be forthwith printed, so that they may be laid before the legislature in a printed form on the first Wednesday in January, annually: *provided*, that if any of said reports shall be unnecessarily voluminous, or contain matter improper to be printed, the secretary is hereby authorized and required, with the authority of the governor and council, to omit such portions as may be unnecessary or improper, in order to reduce the printed report to a reasonable length and a proper form.

Secretary to cause reports to be printed.

Proviso.

SECTION 2. The said documents shall be styled the "Public" series of documents, and shall be numbered separately from the "Senate" and "House" series; and the secretary shall include in said series the annual abstracts prepared in his office, and shall cause the same to be printed before the first Wednesday in January annually.

Style and number of documents.

SECTION 3. Any commission now established or which may hereafter be established, shall make reports at the time and in the manner prescribed in the first section of this act.

Reports of commissioners.

SECTION 4. The first section of this act shall not apply to the annual reports of the treasurer, auditor, attorney-general, board of education, board of agriculture and adjutant-general, which shall be made at the times now required by law, nor to the annual address of his excellency the governor; but said officers are hereby authorized to require any portion of their reports to be put in type previous to the first Wednesday in January, annually, when the same can be done consistently with the public advantage.

Act not to apply to certain officers.

SECTION 5. The first section of this act shall not apply to the annual reports of the railroad corporations; but said reports shall include the year ending on the thirtieth day of November, annually, as now provided by law; but in lieu of the present provisions of law respecting the delivery and printing of said reports, it is hereby enacted that the several railroad corporations shall cause their reports to be printed at their own expense, in conformity to the style and form heretofore usual; and each corporation shall deliver to the secretary of the Commonwealth, annually, one thousand copies of its report in a printed form, on or before the first Wednesday in January.

Act not to apply to railroad corporations.

Railroad corporations to print their annual reports, and furnish one thousand copies to secretary.

SECTION 6. Any railroad corporation, which shall neglect to make its report as prescribed in the foregoing section, shall be liable to the penalty provided in the second section of chapter one hundred and two of the acts of eighteen hundred and fifty-one, relating to the annual reports from railroad corporations.

Penalty for neglecting to make report.

Secretary to prepare abstract of returns.

SECTION 7. The secretary of the Commonwealth shall prepare an abstract of the returns from the railroad corporations, in the form now prescribed by law, and shall submit the same to the legislature, in a printed form, as soon as practicable after the returns are received.

Act not to apply to insurance commissioners.

SECTION 8. The first section of this act shall not apply to the annual report of the board of insurance commissioners ; but said report shall be made at the earliest practicable date after the returns are received from the several insurance companies, and shall be printed on or before the first Wednesday in January, annually.

Secretary to determine number to be printed.

Towns to be furnished with complete sets.

SECTION 9. The secretary shall determine the number of copies of said reports which shall be printed ; and in addition to the distribution which has heretofore been usual, in conformity with existing provisions of law, he shall furnish annually a complete set of the public series, in a bound volume, to every town in the Commonwealth, to be preserved in some public place in the town.

Next reports after passage of this act.

SECTION 10. The next reports of public officers, boards and institutions, made after the passage of this act, shall be made for the period, although less than a year, ending on the thirtieth day of September next, any thing contained in the first section of this act to the contrary notwithstanding.

Special reports not prohibited.

SECTION 11. Nothing in this act contained shall be construed to prohibit public officers or boards, or the managers of public institutions, from making special reports at other times, in addition to their annual reports ; and it is hereby declared to be their duty to make such special reports, whenever the public interest may be subserved thereby.

Legislature may order documents printed.

SECTION 12. Nothing in this act contained shall be construed to qualify the right of either house of the legislature to order to be printed, at any time, such documents as they may see fit.

Inconsistent acts repealed.

SECTION 13. All acts and parts of acts, and all provisions of law, inconsistent with the provisions of this act, are hereby repealed. [*Approved April 2, 1857.*]

Chap. 41.

AN ACT in relation to the Massachusetts Historical Society.

Be it enacted, &c., as follows :

Election of corresponding members.

SECTION 1. Nothing in the act of incorporation of the Massachusetts Historical Society, shall prevent said society from electing associate or corresponding members residing without the limits of this Commonwealth, or honorary members residing either within or without said limits, or from

Honorary members.

having as many as one hundred resident members, at their discretion. Resident members.

SECTION 2. This act shall take effect from and after its acceptance by said society. [*Approved April 2, 1857.*]

AN ACT relating to the Springfield Institution for Savings.

Chap. 42.

Be it enacted, &c., as follows :

The corporation known and called by the name of the Springfield Institution for Savings, which was established by an act of incorporation, passed by the legislature on the sixteenth day of June, in the year eighteen hundred and twenty-seven, entitled, "An Act to incorporate the Springfield Institution for Savings," and by said act was to continue for the term of thirty years, is hereby continued as a corporation after the said term of thirty years shall have expired; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the thirty-sixth chapter of the Revised Statutes, and in all other laws of the Commonwealth relating to institutions for savings. [*Approved April 2, 1857.*]

Corporation continued.

Privileges, restrictions, &c.

AN ACT concerning the Middlesex Railroad Company.

Chap. 43.

Be it enacted, &c., as follows :

SECTION 1. The mayor and aldermen of the city of Boston are hereby authorized to extend the location of the tracks of the Middlesex Railroad Company, upon and over such streets within said city, as may be determined by them, with the assent, in writing, of said company; and the Middlesex Railroad Company are hereby authorized to construct, maintain and use such tracks as may be located as above; with the same powers and privileges, and subject to the same duties, liabilities and restrictions, in relation thereto, as if they had been authorized to be located by the act by which said company was incorporated.

Location of tracks extended in city of Boston.

Company may construct and use such tracks.

Privileges, restrictions, &c.

SECTION 2. This act shall be void, unless the same shall be accepted by the city council of the city of Boston, within one year from its passage.

Act to be accepted by city council in one year.

SECTION 3. This act shall take effect from and after its passage. [*Approved April 2, 1857.*]

AN ACT to incorporate the Franklin Savings Bank, in Pawtucket.

Chap. 44.

Be it enacted, &c., as follows :

Benjamin L. Pitcher, James O. Starkweather, Nahum Bates, their associates and successors, are hereby made a corporation by the name of the Franklin Savings Bank, to

Corporators.

Name.

Privileges, restrictions, &c.

be established in the town of Pawtucket; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the thirty-sixth chapter of the Revised Statutes, and in all other laws of the Commonwealth relating to institutions for savings. [*Approved April 2, 1857.*]

Chap. 45. AN ACT to authorize Abraham Read and others to build a Wharf in the City of Fall River.

Be it enacted, &c., as follows :

Wharf in Fall River.

Abraham Read, Isaac Read and Joseph Read, are hereby authorized to build and maintain a wharf, extending (from high-water mark,) two hundred feet into Taunton Great River, from land owned by them, (at the village of Steep Brook,) in the city of Fall River; and they shall have the right to lay vessels at the end and sides of said wharf, and to receive wharfage and dockage therefor: *provided*, that this act shall in no wise interfere with the legal rights or privileges of any person or persons whatever. [*Approved May 3, 1857.*]

Rights, &c.

Proviso.

Chap. 46. AN ACT to increase the Capital Stock of the Pemberton Mill.

Be it enacted, &c., as follows :

Capital stock increased five hundred shares, of \$1,000 each.

The Pemberton Mill is hereby authorized to increase its capital stock, by adding thereto five hundred additional shares of one thousand dollars each, and to invest such increase in real and personal estate, as may be necessary and convenient for carrying on the business of the corporation: *provided, however*, that no shares in the capital hereby authorized, shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares in the original stock of the corporation. [*Approved April 3, 1857.*]

Proviso.

Chap. 47. AN ACT to authorize George Dunham and another to build a Wharf.

Be it enacted, &c., as follows :

May build wharf.

George Dunham and Mathew P. Butler, are hereby authorized to build and maintain a wharf, from their land adjoining the west side of Holmes' Hole Harbor, extending the same five hundred feet from low-water mark, or to fourteen feet of water at low tide: *provided, however*, that the said wharf shall not extend into the harbor or channel so as to obstruct the navigation thereof; and they shall have the right to lay vessels at the end and sides of said wharf, and to receive wharfage and dockage therefor: *provided*,

Proviso.

Rights, &c.

Proviso.

that this act shall not affect the legal rights of any person, and also that said wharf shall be built on piles below low-water mark. [*Approved April 3, 1857.*]

AN ACT concerning the Trustees of African Methodist Episcopal Churches.

Chap. 48.

Be it enacted, &c., as follows :

SECTION 1. The provisions of the two hundred and eightieth chapter of the acts of this Commonwealth, for the year eighteen hundred and forty-seven, are hereby extended to trustees of societies of the African Methodist Episcopal Church, appointed according to the discipline and usages of said church; and such trustees of any such society, organized under the provisions of said chapter, shall be a body corporate, with all the powers and privileges, and subject to all the duties and liabilities, in said chapter provided.

Trustees appointed, to be a body corporate.

Privileges, restrictions, &c.

SECTION 2. All grants and donations to such trustees, and all property, real and personal, held by them, not exceeding the amount limited in said chapter, shall, upon such organization as aforesaid, vest in, and be held by the body corporate, for the uses and purposes for which the same were granted or held.

All property to be vested in trustees, &c.

SECTION 3. This act shall take effect from and after its passage. [*Approved April 7, 1857.*]

AN ACT to incorporate the United States Hotel Company, at Lawrence.

Chap. 49.

Be it enacted, &c., as follows :

SECTION 1. William L. Brown, William A. Richardson and Lyman J. Sanborn, their associates and successors, are hereby made a corporation, by the name of the United States Hotel Company, in Lawrence, for the purpose of erecting and maintaining a hotel in Lawrence, and the buildings and appurtenances connected therewith; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes: *provided, however*, that said corporation shall not carry on the business of hotel keeping, or be in any way interested in said business.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

Proviso.

SECTION 2. Said corporation may hold real and personal estate, for the purposes aforesaid, to an amount not exceeding seventy-five thousand dollars; but no shares in the capital stock of said corporation, shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued. [*Approved April 7, 1857.*]

Real and personal estate not to exceed \$75,000.

No shares issued under par.

Chap. 50.

AN ACT concerning Loan Fund Associations.

Be it enacted, &c., as follows :

Insurance commissioners to report annually on condition of, &c.

SECTION 1. The insurance commissioners shall, on or before the first Wednesday of January, annually, submit to the legislature a report in print, of the general conduct and condition of the several loan fund associations incorporated by the authority of the Commonwealth, making such suggestions as they shall deem expedient; and furthermore, if any of said associations, or any of the officers thereof, shall, in the opinion of said commissioners, be found at any time to have violated any law of this Commonwealth, in relation to loan fund associations, said commissioners shall forthwith present the facts to the attorney-general, who, in behalf of the Commonwealth, shall be authorized to prosecute said association or said officers, as the case may be, for such violation.

Attorney-general may prosecute.

SECTION 2. This act shall take effect from and after its passage. [*Approved April 7, 1857.*]

Chap. 51.

AN ACT concerning Police Courts.

Be it enacted, &c., as follows :

Powers and duties of police courts.

SECTION 1. The several police courts now established, and the police courts which may hereafter be established in this Commonwealth, may exercise all the powers and perform all the duties, given to and required of justices of the peace, by the laws of this Commonwealth, in and for the several counties in which said courts are or may hereafter be, respectively, located.

SECTION 2. This act shall take effect from and after its passage. [*Approved April 7, 1857.*]

Chap. 52.

AN ACT to repeal chapter eighteen of the Resolves of eighteen hundred and fifty-one, concerning the Potato Rot.

Be it enacted, &c., as follows :

Repeal.

SECTION 1. Chapter eighteen of the Resolves of eighteen hundred and fifty-one, is hereby repealed.

SECTION 2. This act shall take effect from and after its passage. [*Approved April 9, 1857.*]

Chap. 53.

AN ACT to incorporate the Monnamoiet Insurance Company.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. Joshua Nickerson, Elijah W. Carpenter and Christopher Taylor, 3rd, their associates and successors, are hereby made a corporation, for the term of twenty years from the passage of this act, by the name of the Monnamoiet Insurance Company, to be established in the town of Chat-

Duration.
Name.

ham for the purpose of making insurance against maritime losses: with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and all other general laws, which now are, or hereafter may be in force, relative to marine insurance companies.

Privileges, restrictions, &c.

SECTION 2. The said corporation shall have a capital stock of fifty thousand dollars, divided into shares of fifty dollars each, with liberty to pay in and increase the same to any amount, not exceeding one hundred thousand dollars, and may hold real estate, for its use, not exceeding two thousand dollars.

Capital stock \$50,000, in shares of \$50 each.

Real estate \$2,000

SECTION 3. The said corporation may commence business, when twenty-five thousand dollars of its capital stock shall be paid in.

When to commence business.

SECTION 4. This act shall take effect from and after its passage. [*Approved April 9, 1857.*]

AN ACT to authorize John Perkins and others to build a Wharf.

Chap. 54.

Be it enacted, &c., as follows :

SECTION 1. John Perkins, William H. Perkins, George Perkins and Gilbert Perkins, are hereby authorized to build, extend and maintain a wharf sixty feet in breadth, extending from their land on the northerly side of the "Upper Cove," in the harbor of Gloucester, a distance not exceeding one hundred and twenty feet, in a south-easterly direction from high-water mark, and shall have the right to lay vessels at the end and sides thereof, and to receive wharfage and dockage therefor: *provided*, that this grant shall in no wise impair the legal rights of any person or corporation.

Wharf in Gloucester.

Rights, &c.

Proviso.

SECTION 2. This act shall take effect from and after its passage. [*Approved April 9, 1857.*]

AN ACT in addition to an Act relating to Leasehold Estates.

Chap. 55.

Be it enacted, &c., as follows :

Whenever any suit shall be brought to recover possession of any premises held by virtue of a written lease, under the provisions of the one hundred and fourth chapter of the Revised Statutes, and of the two hundred and sixty-seventh chapter of the statutes of the year eighteen hundred and forty-seven, by reason of the non-payment of the rent reserved in such lease, if the tenant shall pay or tender to the landlord or his attorney the rent due with interest thereon, and all costs of suit, four days at least before the return day of the writ, the lease shall be and continue in full

Proceedings in suits for non-payment of rent.

Proviso. force: *provided*, that nothing herein contained shall affect any other rights or remedies on the part of the lessor, which may be provided for in such lease. [*Approved April 9, 1857.*]

Chap. 56. AN ACT to amend chapter two hundred fifteen of the laws of one thousand eight hundred and fifty-six, entitled, "An Act relating to the organization of Corporations for Educational, Charitable and Religious purposes."

Be it enacted, &c., as follows :

Seven or more persons may organize as corporations. SECTION 1. Any seven or more persons, within this Commonwealth, who shall, by writing, associate themselves together under any name by them assumed, for educational, charitable, or religious purposes, and shall comply with the provisions of this act, shall, with their successors, be and remain a body politic and corporate.

Purposes, &c., to be specified. SECTION 2. The purpose for which such corporation shall be established, and the town or city within which it is established or located, shall be distinctly specified in its articles of association, which articles of association and all amendments thereto, shall be recorded in the office of the register of deeds in the county wherein said city or town is situated; and it shall not be lawful for such corporation to appropriate its funds to any other purpose.

Articles of association to be recorded. SECTION 3. Any corporation, organized in accordance with the provisions of this act, shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, so far as the said provisions shall be applicable to corporations organized under the provisions of this act.

Privileges, restrictions, &c. SECTION 4. Such corporations may hold real and personal estate necessary for the purposes of said organization, to any amount not exceeding one hundred thousand dollars.

Real and personal estate not to exceed \$100,000. SECTION 5. The real and personal estate of any company, organized under the provisions of this act, shall not be exempted from taxation in any case where any part of the income or profits of the business of such corporation is divided among the members or stockholders of said corporation, or where any portion of said real and personal estate is used or appropriated for other than educational, charitable, or religious purposes.

Not exempt from taxation. SECTION 6. The two hundred and fifteenth chapter of the statutes of the year one thousand eight hundred and fifty-six, is hereby repealed.

Act repealed. SECTION 7. This act shall take effect on and after its passage. [*Approved April 10, 1857.*]

AN ACT to incorporate the Charles River Navigation Company.

Chap. 57.

Be it enacted, &c., as follows :

SECTION 1. Nathaniel Whiting, Charles Bemis, William G. Lincoln, their associates and successors, are hereby made a corporation by the name of the Charles River Navigation Company, with power to deepen the bed of Charles River from the head of tide water, at the bridge in Watertown village, to the Hancock Free Bridge, between Boston and Cambridge; and said corporation may obtain boats, barges, scows, sail or steam vessels, wherewith to navigate said river for the conveyance of passengers or merchandise, and towing of vessels or rafts thereon; and make contracts for the prosecution of said work and carrying on said business.

Corporators.

Name.

Powers.

SECTION 2. And said corporation may purchase real estate to an amount not exceeding thirty thousand dollars, and if upon the banks of said river, between the bridge at Watertown village and the city of Cambridge, construct docks and wharves thereon, lay vessels within and at the sides thereof, and receive dockage and wharfage therefor; and improve and manage said property for mercantile purposes, in such manner as to them shall seem expedient, and sell and convey the same, or any part thereof: *provided*, that the amount of real estate held by said corporation shall not exceed the sum of fifty thousand dollars, and that nothing herein contained shall authorize the said corporation to infringe upon the legal rights of any person, or to build any wharf or other structure not now authorized by law; and that all mud, and other deposit matter by them excavated, shall be removed, and not so deposited upon the banks of the river as in any way to create a nuisance.

May purchase real estate not exceeding \$30,000; and if, &c., construct docks, &c.

Proviso.

SECTION 3. Said corporation may, at its first meeting, agree upon the number of shares, not exceeding two thousand, into which their stock shall be divided, which shares shall be transferable in a book, to be kept by the clerk of the corporation for that purpose; may, from time to time, assess upon the stockholders such sums of money, not exceeding in the whole one hundred dollars on each share, as may be necessary for the purchase and improvement of their property and the management of their business; and may, in case any stockholder shall neglect to pay any such assessment, cause such of the shares of such stockholders as may be sufficient therefor, to be sold, in such manner as said corporation by their by-laws may determine.

Shares not to exceed two thousand.

Transferable.

Assessments.

Shares sold for non-payment of assessments.

SECTION 4. Said corporation shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, contained in the forty-fourth chapter of the Revised Statutes.

Privileges, restrictions, &c.

Commissioners on
Back Bay to have
supervision, &c.

SECTION 5. The deepening of the bed of Charles River, authorized by this act, shall be done under the supervision and to the acceptance of the commissioners on the Back Bay; and no wharf or other structure shall be made upon the banks of said river, injurious to its navigation.

SECTION 6. This act shall take effect from and after its passage. [*Approved April 10, 1857.*]

Chap. 58.

AN ACT to incorporate the American Print Works.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. Richard Borden, Jefferson Borden, and Nathan Durfee, their associates and successors, are hereby made a corporation by the name of the American Print Works, to be established in the city of Fall River, for the purpose of manufacturing, printing and preparing cotton and other fabrics, for the market; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes.

May hold neces-
sary real and
personal estate.

SECTION 2. Said corporation may hold such real and personal estate, as may be necessary and convenient for the purposes aforesaid: *provided*, the whole capital stock of said corporation shall not exceed the sum of seven hundred and fifty thousand dollars.

Proviso.

No shares issued
under par.

SECTION 3. No shares in the capital stock of said corporation shall be issued at less than the par value which may be first fixed upon the same. [*Approved April 11, 1857.*]

Chap. 59.

AN ACT to establish the dividing Line between the Towns of East Bridgewater and Halifax.

Be it enacted, &c., as follows :

Boundary line
established.

SECTION 1. The dividing line between the towns of East Bridgewater and Halifax, in the county of Plymouth, is hereby established, as follows:—

Beginning at the south-east corner of the town of East Bridgewater, at a stone monument, standing on the southerly side of the road in the westerly line of said Halifax, marked "H. E. B. 1830"; thence running north five degrees forty-five minutes east, one hundred forty-six rods; thence running north thirteen degrees forty-five minutes east, two hundred ninety-two rods, to a stone monument, standing on the westerly side of the road, marked "1830"; thence running north twenty-one degrees and thirty minutes east, sixty-one rods, to a stone monument, standing on the easterly side of the road—a corner of the town of Hanson: and

the said line, as above described, shall forever hereafter be the dividing line between said towns.

SECTION 2. All the land lying on the northerly and westerly side of said line, which has heretofore constituted a part of the town of Halifax, is hereby set off from the town of Halifax, and annexed to the town of East Bridgewater. Territory annexed to East Bridgewater.

SECTION 3. This act shall take effect from and after its passage. [*Approved April 11, 1857.*]

AN ACT for taking the Census of the Legal Voters and Inhabitants of this Commonwealth. *Chap. 60.*

Be it enacted, &c., as follows :

SECTION 1. A census of the legal voters of each city and town in this Commonwealth, on the first day of May next, shall be taken and returned into the office of the Secretary of the Commonwealth, on or before the last day of June next, and a census of the inhabitants of each city and town on the first day of May, in the year eighteen hundred and sixty-five, and of every tenth year thereafter, in the manner hereinafter prescribed. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city, said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. Decennial census of legal voters.

SECTION 2. The said census shall be taken in the several cities by censors appointed by the mayors and aldermen, or the board of aldermen thereof, respectively, and in the several towns by the assessors thereof, respectively, which censors and assessors shall be sworn to the faithful discharge of this duty. And said censors and assessors shall make out, in words at length, a return of the result of said census, and shall sign the said return and make oath that the same is true; and a certificate of the said oath, under the hand of the magistrate administering the same, shall be annexed to said return. And the said censors or assessors shall deliver the said return to the sheriff, on or before the twentieth day of June of the year in which said census is taken, who shall transmit the same to the office of the secretary of the Commonwealth, on or before the last day of said June; or the said censors or assessors shall themselves transmit the said return to the secretary's office on or before the day last named. Census to be taken by sworn censors and assessors.

SECTION 3. Any censor or assessor, who shall wilfully refuse or neglect to perform any duty imposed on him by this act, shall be liable to a penalty not exceeding five hundred dollars: and any sheriff, who shall wilfully refuse or Returns, &c. Penalties for neglect of duty.

neglect to perform the duty imposed on him by this act, shall be liable to a penalty not exceeding one thousand dollars: and any censor or assessor who shall be guilty of wilful deceit or falsehood in the discharge of any duties enjoined by this act, shall be liable to a penalty not exceeding two thousand dollars, or to imprisonment for a term not exceeding one year.

SECTION 4. As soon as may be after the passing of this act, the secretary shall transmit a printed copy of the same to the clerks of the several cities and towns, respectively, and a printed form of return, and shall annex to said form a notification that all returns must be made into his office on or before the last day of June next, and shall transmit a like form of return on or before the first day of May, in the year eighteen hundred and sixty-five, and every tenth year thereafter.

SECTION 5. The act passed on the twenty-first day of March, eighteen hundred and forty, entitled, "An Act for taking a Census of the Inhabitants of this Commonwealth," is hereby repealed.

SECTION 6. This act shall take effect from and after the date of the governor's proclamation, announcing that either of the articles of amendment of the constitution, relating to the districting of the State for the choice of representatives or senators to the general court, to be submitted to the people on the first day of May of the present year, has been duly adopted and ratified by them; and if both of said amendments shall be rejected, this act shall be void.
[Approved April 11, 1857.]

Chap. 61. AN ACT to authorize the Boston Five Cents Savings Bank to hold Real Estate.

Be it enacted, &c., as follows:

SECTION 1. The Boston Five Cents Savings Bank is hereby authorized to hold real estate within the city of Boston, to an amount not exceeding one hundred thousand dollars: *provided*, that no part of said amount shall be invested in real estate, except in the purchase of a suitable site, and the erection or preparation of a suitable building, to be used for banking purposes; and all income, if any, arising from such real estate, shall be devoted exclusively to the interests of said corporation.

SECTION 2. This act shall take effect from and after its passage. [Approved April 13, 1857.]

Secretary to transmit act and form of returns.

Act repealed.

When to take effect.

May hold real estate not exceeding \$100,000.

Proviso.

AN ACT concerning the Boston and Chelsea Railroad Company.

Chap. 62.

Be it enacted, &c., as follows :

The time, within which the Boston and Chelsea Railroad Company are authorized to locate and construct their road, is hereby extended one year. [Approved April 14, 1857.]

Time for location and construction extended.

AN ACT to set off a part of the Town of Duxbury, and annex the same to the Town of Kingston.

Chap. 63.

Be it enacted, &c., as follows :

SECTION 1. All that part of the town of Duxbury, in the county of Plymouth, lying on the south-westerly side of a line, beginning at Tussock Brook, so called, at the north-westerly corner of the land of Timothy French, and thence running south, seventy-seven degrees east, one hundred and sixty-eight rods, to the shore, and thence in the same course to the channel of Jones River, with the inhabitants and estates thereon, is hereby set off and annexed to the town of Kingston: *provided, however*, that for the purpose of electing a representative to the general court, to which the said town of Duxbury shall be entitled, until the next apportionment of representatives, the said territory shall continue to be and remain a part of said town of Duxbury; and the selectmen of the said town of Kingston shall furnish to the selectmen of the town of Duxbury, fourteen days, at least, before the Tuesday next after the first Monday in November, annually, a true list of all persons resident on said territory, who may be entitled to vote in the choice of representative, as aforesaid in said town of Duxbury.

Territory annexed to Kingston

Proviso.

SECTION 2. The said inhabitants and estates, so set off, shall be liable to pay all taxes that have been legally assessed on them by the said town of Duxbury, in the same manner as if this act had not been passed; and until the next general valuation of estates in this Commonwealth, the town of Kingston shall annually pay over, to the said town of Duxbury, the proportion of any state or county tax which the said town of Duxbury may be required to pay upon the inhabitants or estates hereby set off; said proportion to be ascertained and determined by the valuation of the town of Duxbury, next preceding the passage of this act.

Inhabitants to pay arrear taxes, as specified.

SECTION 3. The town of Kingston shall be liable for the support of all persons, who may, after the passage of this act, stand in need of relief as paupers, whose settlement was gained by, or derived from, a residence within the limits of the territory set off as aforesaid, and shall also refund to the town of Duxbury, the amount paid by said town of Duxbury,

Paupers, how supported, &c.

for repairing the bridge over Jones River, during the last year.

SECTION 4. This act shall take effect from and after its passage. [*Approved April 14, 1857.*]

Chap. 64. AN ACT in relation to the removal of Snow and Ice from the Sidewalks of Cities.

Be it enacted, &c., as follows :

Removal of snow from sidewalks.

SECTION 1. The city council of any incorporated city in the Commonwealth, are hereby authorized to provide, by ordinance, for the removal of snow and ice from the sidewalks, in such portions of such city, as shall be by them deemed expedient.

Penalty for violating ordinance.

SECTION 2. Such ordinance shall determine in what time and manner snow and ice shall be removed, as aforesaid, and shall affix suitable penalties, not exceeding fifty dollars, to any violation of the provisions of said ordinance: *provided*, that no person shall be liable to any penalty, as above provided, excepting the owner or tenant of the estate abutting upon the sidewalk, from which the snow and ice are required to be removed. [*Approved April 14, 1857.*]

Proviso.

Chap. 65. AN ACT concerning the State House.

Be it enacted, &c., as follows :

Committee to report necessary repairs, &c., upon state house.

SECTION 1. There shall be annually appointed by the senate and house of representatives, a joint standing committee on the state house, consisting of two members on the part of the senate, and five on the part of the house, who shall report to the legislature, what repairs and improvements are necessary to be made in and upon the state house, and the grounds connected therewith, together with an estimate of the expenses attending the same.

Commissioners to have charge of appropriations, &c.

SECTION 2. The sergeant-at-arms, secretary and treasurer of the Commonwealth, shall be and hereby are constituted and appointed a commission, having in charge the appropriations for the repairs, improvements and furniture of the state house, and contingent expenses of the council, general court, and offices in the state house; and no expenses shall be incurred for the aforesaid purposes, unless previously authorized by said commission, and no expenses shall be authorized by them unless the same come within the amount appropriated by the legislature: *provided, however*, that in case of damage to the state house, caused during the recess of the legislature, by fire or other unforeseen casualty, the said commissioners shall have authority

Proviso.

to make whatever repairs may be necessary for the protection and preservation of the building.

SECTION 3. No compensation shall be allowed for services on this commission. No compensation

SECTION 4. All acts and parts of acts, inconsistent with this act, are hereby repealed. Inconsistent acts repealed.

SECTION 5. This act shall take effect from and after its passage. [*Approved April 14, 1857.*]

AN ACT in relation to the Jurisdiction of the Supreme Judicial Court. Chap. 66.
Be it enacted, &c., as follows :

The supreme judicial court, at any law term held for two or more counties, shall have cognizance of all suits, writs, processes and other matters, which may arise or be pending in either of the said counties, excepting the counties of Dukes and Nantucket, in like manner as if the court were held in the county in which the matter is pending, except that no issue shall be tried by a jury in any county other than that in which the suit is pending; and original writs, and all other writs and processes sued out in either of said counties, may be made returnable to the law term, then next to be held for the same county, in like manner as if the court were held in the county within which said writs and processes were sued out. Jurisdiction of S. J. Court.
Returns of processes. [*Approved April 17, 1857.*]

AN ACT to authorize Samuel J. Goodwin to build a Wharf, in Swampscott. Chap. 67.
Be it enacted, &c., as follows :

SECTION 1. Samuel J. Goodwin is hereby authorized to build and maintain a wharf from his land in Swampscott, at Blaney's Beach, forty feet wide, and to extend into the sea four hundred feet from high-water mark; and he shall have the right to lay vessels at the end and sides of said wharf, and receive wharfage and dockage therefor: *provided*, that this grant shall not in any manner interfere with the legal rights of any person or persons whatever. May build wharf.
Rights, &c
Proviso.

SECTION 2. This act shall take effect from and after its passage. [*Approved April 18, 1857.*]

AN ACT to authorize the Eliot Fire Insurance Company to hold Real Estate. Chap. 68.

Be it enacted, &c., as follows :

The Eliot Fire Insurance Company, of the city of Boston, may hold real estate, in addition to the amount now authorized to be held by them, in a sum not exceeding seventy thousand dollars, one-half of which may be taken from the capital Additional real estate, \$70,000.

stock thereof, and the residue from the earnings of said corporation—any law to the contrary notwithstanding. [*Approved April 18, 1857.*]

Chap. 69. AN ACT to authorize the Commissioners of Worcester County to borrow Money.

Be it enacted, &c., as follows :

Commissioners authorized to borrow \$35,000, to build jail.

SECTION 1. The county commissioners for the county of Worcester are hereby authorized and empowered to borrow, on the credit of said county, in addition to the amount of debt they are now authorized to contract, a sum not exceeding thirty-five thousand dollars; the same to be expended by the said commissioners, or their successors in office, in building a jail in the town of Fitchburg, in said county; and also a sum not exceeding twenty thousand dollars, to be expended by said commissioners, or their successors in office, in providing further accommodations for convicts sentenced to the house of correction, in said county.

Additional sum of \$20,000, to support convicts.

SECTION 2. This act shall take effect on and after its passage. [*Approved April 18, 1857.*]

Chap. 70. AN ACT to authorize Silas Hatch and others to construct a Cart-way in the Town of Falmouth.

Be it enacted, &c., as follows :

Cart-way in Falmouth.

Silas Hatch, Benjamin Hatch, Moses E. Hatch and Thatcher C. Hatch, proprietors of a "right of way" over Meadow Neck, and owners of Seaconset Island, so called, in the town of Falmouth, their heirs and assigns, are hereby authorized to construct and maintain a cart-way across the creek from Meadow Neck to Seaconset Island: *provided*, that this grant shall in no wise interfere with the legal rights of any person or persons. [*Approved April 18, 1857.*]

Proviso.

Chap. 71. AN ACT in relation to the accounts of Executors, Administrators and Guardians, and the examination of persons suspected of Embezzlement, in certain cases.

Be it enacted, &c., as follows :

Executors, administrators, &c., to make full disclosure of probate proceedings, &c.

SECTION 1. Every executor, administrator, guardian, or other person, authorized to make sale of lands under the provisions of the seventy-first and seventy-second chapters of the Revised Statutes, or of the one hundred and ninetieth chapter of the acts of eighteen hundred and thirty-eight, shall be required, upon the application, to the judge of probate, of any heir, creditor, ward, or other person interested in the estate, to make answer upon oath, to all matters touching his exercise and fulfillment of said license, includ-

ing all proceedings under it from its first grant, as fully as he is now liable to account, and to be examined in reference to personal estate: and if, in relation to the exercise of such license, or any sale under it, there shall be any neglect or misconduct in the proceedings of such executor, administrator, guardian, or other person, by which any person interested in the estate shall suffer damage, such aggrieved person may recover compensation therefor, on the probate bond or otherwise, as the case may require.

Proceedings in case of misconduct, &c.

SECTION 2. Upon complaint made to the judge of probate, by any executor, administrator or guardian, or by any heir, legatee, ward, creditor, or other person interested in the estate of any deceased person or ward, against any one suspected of having fraudulently received, concealed, embezzled, or conveyed away any of the moneys, goods, effects, or other estate, as well real as personal, of the deceased person or of the ward, the judge may cite such suspected person, including therein an executor, administrator or guardian, to appear before him, and to be examined on oath, upon the matter of such complaint; and if the person so cited shall refuse to appear and submit to such examination, or to answer such interrogatories as shall be lawfully propounded to him, the judge may commit him to the common jail of the county, there to remain in close custody, until he shall submit to the order of the court; and all such interrogatories and answers shall be in writing, and shall be signed by the party examined, and filed in the probate court.

Judge of probate may cite suspected persons to appear, &c.

Punishment on refusing to appear, &c.

SECTION 3. The thirty-ninth section of the seventy-first chapter, the seventh section of the sixty-fifth chapter, and the twenty-seventh section of the seventy-ninth chapter of the Revised Statutes, are hereby repealed,—saving any rights which may have accrued, or any proceeding which may be now pending, under and by virtue thereof. [*Approved April 18, 1857.*]

Acts repealed.

AN ACT to incorporate the Young Men's Union, of Salem.

Be it enacted, &c., as follows:

Chap. 72.

SECTION 1. George M. Whipple, A. Augustus Smith, Alfred Stone, Sidney C. Bancroft and George R. Emmerton, their associates and successors, are hereby made a corporation, by the name of The Young Men's Union, of Salem; for the purpose of diffusing and promoting knowledge among young men, now engaged in or destined for mercantile and other pursuits, by opening a reading-room, establishing a library, and by such other means as they may think expedient; with all the powers and privileges, and subject to all

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Real and personal estate not to exceed \$60,000, to be vested in trustees.

SECTION 2. The said corporation may hold real and personal estate, to be used for the purposes aforesaid, not exceeding in all, the value of sixty thousand dollars, the legal title to which shall be in five trustees, to be appointed by a majority of the members of the corporation, in the manner prescribed by their by-laws. All the trustees shall be of adult age, and shall be subject, in the care, management and disposal of said property, to the control and direction of a joint board, consisting of the trustees aforesaid, and the board of government named in the fourth section of this act.

Persons eligible as members.

SECTION 3. Persons engaged in mercantile and other laudable pursuits, or preparing themselves therefor, and above the age of sixteen years, and no others, shall be eligible as members of the corporation, and entitled to vote and act as officers thereof, excepting that in no case shall a person under twenty-one years of age be a trustee.

Board of government.

SECTION 4. The persons holding the following offices shall constitute the board of government of the association, to wit: the president, vice-president, corresponding secretary, recording secretary, treasurer, and a board of directors, which shall consist of not more than thirteen members,—all of whom shall be elected in the manner prescribed by the by-laws of the association; and said board of government may receive as subscribers to the library or reading-rooms, and admit to the privileges thereof, any person or mercantile firm, who may not be eligible as a member or members of the association under this act, upon the payment of a subscription, and complying with such other terms and conditions as said board may prescribe.

Repeal.

SECTION 5. The act entitled, "An Act to incorporate the Young Men's Union, of Salem," approved March fourth, eighteen hundred and fifty-seven, is hereby repealed.

SECTION 6. This act shall take effect from and after its passage. [*Approved April 18, 1857.*]

Chap. 73.

AN ACT to incorporate the First Baptist Church, in Woburn.

Be it enacted, &c., as follows:

Corporators.

SECTION 1. John Tidd, John Cummings, and all other members of the First Baptist Church, in Woburn, in the county of Middlesex, and their successors, as members of said church, are hereby made a corporation, for the purpose of taking, holding and managing the donations made to said church, for their own use, and also as trustees, by and under

Purpose.

the last will and testament of Peter Fisk, late of said Woburn, deceased: said corporation to have all the rights and powers, and be subject to all the duties, liabilities and requirements, provided by the laws of this Commonwealth, so far as the same are or may be applicable to such corporation.

Privileges, restrictions, &c.

SECTION 2. For the purposes of this act, women and minors, who now are, or shall become members of said church, shall, so long as they shall remain members of the same, be members of said corporation.

Members of corporation.

SECTION 3. This act shall take effect from and after its passage. [Approved April 21, 1857.]

AN ACT to amend "An Act concerning Beaches in the Town of North Chelsea."

Chap. 74.

Be it enacted, &c., as follows:

SECTION 1. So much of the two hundred and ninety-third chapter of the acts passed in the year eighteen hundred and fifty-five, entitled "An Act concerning Beaches in the town of North Chelsea," as relates to sea-weed, is hereby repealed.

Partial repeal.

SECTION 2. This act shall take effect from and after its passage. [Approved April 21, 1857.]

AN ACT in further addition to "An Act to establish the City of Cambridge."

Chap. 75.

Be it enacted, &c., as follows:

SECTION 1. The qualified voters of the city of Cambridge, at their annual meeting for the election of municipal officers first to be held after the passage of this act, shall elect three persons to be assessors; and the person who receives the highest number of votes, or in case two or more persons receive an equal number of votes, the person who is senior by age, shall hold the office for three years, and until another is chosen and qualified in his stead; and the person who receives the next highest number of votes, or who is senior by age in the contingency aforesaid, shall hold the office for two years, and until another is chosen and qualified in his stead; and the other person shall hold the office for one year, and until another is chosen and qualified in his stead; and at every subsequent election, one person shall be chosen to be an assessor for three years, and until another is chosen and qualified in his stead; and the persons thus chosen assessors, shall constitute the board of assessors, and shall exercise the powers, and be subject to the duties and liabilities of assessors of towns. The qualified voters shall

Election of assessors.

Assistant-assessors.

at the same time, and in like manner, elect such number of assistant-assessors as the city council may, from time to time, determine ; and such assistant-assessors shall hold their offices for the term of one year.

City council to fill certain vacancies

SECTION 2. The city council shall, in the month of January, annually, in convention, and by joint ballot, fill all vacancies that may exist in the overseers of the poor, or in the assessors or assistant-assessors, by reason of a failure to elect by the inhabitants at their annual meeting. The candidates for filling such vacancies shall be determined in the manner provided in the constitution of the Commonwealth for filling vacancies in the State senate. All vacancies in either of said board, of officers, arising from any other cause, may be filled by the city council in like manner, from the citizens at large.

School-committee.

SECTION 3. The qualified voters of the city, at the annual meeting, shall choose ten persons for a school-committee, three of whom shall be residents of ward numbered one, four of ward numbered two, and three of ward numbered three ; but whenever the number of wards shall be increased to four, there shall be chosen two from each ward, and two at large ; and whenever a greater number of wards shall be constituted, there shall be chosen two from each ward.

City council to elect subordinate officers, &c.

SECTION 4. In addition to the election of officers in the month of January, provided for in the act in addition to "An Act to establish the City of Cambridge," approved April fourteenth, one thousand eight hundred and fifty-three, the city council shall, in the month of January, annually, in convention and by joint ballot, elect all subordinate officers who are not chosen by the inhabitants, or appointed by the mayor and aldermen ; and the doings of the city council in the election of such subordinate officers, for the years one thousand eight hundred and fifty-five, one thousand eight hundred and fifty-six, and one thousand eight hundred and fifty-seven, are hereby confirmed, and shall be as valid and effectual as if the elections had been made in accordance with the provisions of the acts to which this act is in addition.

Doings confirmed

Vacancy of ward officers.

SECTION 5. Whenever it shall appear to the mayor and aldermen, that there is a vacancy in any of the ward offices, it shall be their duty to issue their warrant in due form to fill all such vacancies, at such time and place as they may deem advisable ; and the same proceedings shall be had, and adjournments, if necessary, as are prescribed for the election of such officers at the annual meeting.

SECTION 6. In case of the absence of any ward officer,

at any ward meeting, such officer may be chosen *pro tempore*, and shall have all the powers, and be subject to all the duties, of the regular officer at such meeting. Officers pro tem.

SECTION 7. It shall be the duty of the warden to preside at all ward meetings, with the powers of moderators of town meetings. In case of his absence, the clerk, and in case of the absence of the clerk, any inspector shall preside according to seniority, until a warden shall be chosen, as above provided. Presiding officer.

SECTION 8. The boundaries of the several wards, and the number of members of the common-council which each shall be entitled to elect, shall continue the same as at present established, until the month of October in the year one thousand eight hundred and fifty-seven, at which time, and every fifth year thereafter, the city council shall revise the boundaries of the wards, and may increase the number thereof, and apportion the members of the common-council to the several wards, in accordance with the provisions of the act to which this act is in further addition: *provided, however*, that the whole number of wards in the city shall not exceed five. Boundaries of wards to be revised every five years, from October, 1857.

SECTION 9. Whenever the number of wards shall be increased, as provided in the preceding section, the number of aldermen shall be increased proportionally, and the inhabitants shall be entitled to elect annually, a number of aldermen equal to twice the number of wards in the city. Proviso.

SECTION 10. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed. Additional aldermen.

SECTION 11. This act shall be void, unless the inhabitants of the city of Cambridge, at a legal meeting called for that purpose, shall, by a majority of the voters present and voting thereon, by ballot, determine to adopt the same, within six months after its passage. [*Approved April 22, 1857.*] Inconsistent acts repealed.

AN ACT in addition to "An Act to establish the City of Fall River." *Chap. 76.*
Be it enacted, &c., as follows:

SECTION 1. On the first Monday in March, annually, there shall be chosen, by ballot, in each of the said wards, a warden, clerk, and three inspectors of elections, who shall be different persons, residents of wards in which they are chosen, who shall hold their offices for one year, and until others shall have been chosen in their places, and qualified to act. It shall be the duty of such wardens to preside at all ward meetings, with the power of moderators of town meetings; and if, at any meeting, the warden shall not be present, Choice of warden, clerk and inspectors.

Duty of wardens.

- Officers pro tem.* the clerk of such ward shall call the meeting to order, and preside until a warden, *pro tempore*, shall be chosen by ballot; and if, at any meeting, the clerk shall not be present, a clerk, *pro tempore*, shall be chosen by ballot; and if both the warden and clerk shall be absent, either of the inspectors of said ward may call the meeting to order, and preside until a warden, *pro tempore*, shall be chosen as aforesaid; and in case of the absence of all of said officers, the constable who returns the warrant to said ward meeting may call the meeting to order and preside until a warden, *pro tempore*, shall be chosen by ballot; and whenever any ward officer may be absent, or neglect, or refuse to perform his duties, his office shall be filled, *pro tempore*, by ballot. The clerk shall record all the proceedings and certify the votes given, and deliver to his successor in office, all such records and journals, together with all other documents and papers held by him in the said capacity. And it shall be the duty of the inspectors of elections to assist the warden in receiving, asserting and counting the votes. And the warden, clerk and inspectors so chosen, shall respectively make oath or affirmation, faithfully and impartially to discharge their several duties relative to all elections, which oath may be administered by the clerk of such ward to the warden, and by the warden to the clerk and inspectors, or by any justice of the peace for the county of Bristol; and the fact, or certificate, that such oath has been taken, shall be entered on the record of the ward by the clerk thereof. All warrants for meetings of citizens, for municipal purposes, to be held either in wards or in general meetings, shall be issued by the mayor and aldermen, and shall be in such form, and shall be served, executed and returned in such manner, and at such times, as the city council may, by any by-law, direct.
- Duty of clerk.*
- Duty of inspectors.*
- Mayor and aldermen to issue warrants for meetings.*
- Repeal.* SECTION 2. The fourth section of the act entitled, "An Act to establish the City of Fall River," passed April twelfth, in the year one thousand eight hundred and fifty-four, is hereby repealed.
- Act void unless approved, &c.* SECTION 3. The provisions of this act shall be void, unless submitted to, and approved by, the voters of the city of Fall River, at meetings held simultaneously in the several wards, upon notice duly given, at least seven days before the time of holding said meeting. [*Approved April 24, 1857.*]

AN ACT in addition to an Act establishing the City of Fall River.

Chap. 77.

Be it enacted, &c., as follows :

SECTION 1. The mayor and aldermen of the city of Fall River, shall have full and exclusive power and authority to appoint a city marshal, and such number of assistant-marshals, constables and police officers, as they shall deem expedient, and the same to remove at pleasure. Powers of mayor and aldermen.

SECTION 2. All parts of the eighth section of the charter of the city of Fall River, inconsistent with this act, are hereby repealed. Partial repeal.

SECTION 3. This act shall be void unless it shall be accepted and approved by a majority of the legal voters of the city of Fall River, present and voting at meetings called for that purpose, in the several wards of said city, at least seven days before the time of holding said meeting. [*Approved April 24, 1857.*] Act void unless accepted, &c.

AN ACT to establish the Terms of the Court of Probate in the County of Middlesex. *Chap. 78.*

Be it enacted, &c., as follows :

SECTION 1. A court of probate shall be held in the county of Middlesex at the following times and places in each year: At Cambridge, on the second Tuesday of each month, except July, and on the fourth Tuesday of January, February, March, April, August, November and December; at Lowell, on the first Tuesday of February, April, June, September and December; at Concord, on the first Tuesday of January, March, May and October; at Groton, on the fourth Tuesday of May and September; at Framingham, on the fourth Tuesday of June and October. So much of the fifty-fifth section of the eighty-third chapter of the Revised Statutes as relates to the holding of courts of probate in the county of Middlesex, and also the two hundred and tenth chapter of the acts of the year eighteen hundred and forty-eight, and the two hundred and seventy-third chapter of the acts of the year eighteen hundred and fifty-six, are hereby repealed. Terms established. At Cambridge. Lowell. Concord. Groton. Framingham. Repeal of statutes.

SECTION 2. This act shall take effect from and after the first day of July next. [*Approved April 24, 1857.*] When to take effect.

AN ACT concerning the Equitable Marine Insurance Company.

Chap. 79.

Be it enacted, &c., as follows :

SECTION 1. The Equitable Marine Insurance Company, in the town of Provincetown, are hereby authorized to file a notice of the acceptance by them, of their charter, and of an act in addition thereto, passed on the eighteenth day of Notice to secretary of Commonwealth.

April, in the year one thousand eight hundred and fifty-five, with the secretary of the Commonwealth, within thirty days from the passage of this act; and the filing of the same shall have the same effect, as if it had been filed agreeably to the provisions of the statutes of this Commonwealth, regulating the business of insurance companies.

SECTION 2. This act shall take effect from and after its passage. [*Approved April 24, 1857.*]

Chap. 80. AN ACT concerning the offence of obtaining Property under False Pretences.

Be it enacted, &c., as follows :

Justices of the peace and police courts shall have jurisdiction of the offence of obtaining property by any false pretence, or by any privy or false token, in all cases in which they would have had jurisdiction of a larceny of the same property, and shall have power to impose a like punishment as in case of a larceny of the same property. [*Approved April 24, 1857.*]

Chap. 81. AN ACT to incorporate the Lincoln Wharf Company.

Be it enacted, &c., as follows :

SECTION 1. Noah Lincoln, Frederic W. Lincoln, junior, and Levi Thaxter, their associates and successors, are hereby made a corporation, by the name of the Lincoln Wharf Company; with power to purchase and hold, in fee simple, any part, or the whole of the estate on Commercial Street, in Boston, and known as Lincoln's Wharf, with all the privileges and appurtenances to the same belonging; and the said corporation may construct docks and wharves upon said premises, lay vessels within and at the sides and ends thereof, and receive dockage and wharfage therefor, and improve and manage said property in such manner as to them shall seem expedient; and may sell and convey the same, or any part thereof: *provided*, that nothing herein contained shall authorize the said corporation to infringe upon the legal rights of any person, or to build any wharf, or other structure on the premises which is not now authorized by law.

SECTION 2. The capital stock of said corporation shall not exceed three hundred thousand dollars, divided into shares of not less than one hundred dollars each; and no shares in the capital stock shall be issued for a less sum or amount, to be paid in on each, than the par value of the shares first issued.

SECTION 3. Said corporation shall have all the powers and privileges, and be subject to all the duties, restrictions

Jurisdiction of justices of peace, &c.

Corporators.

Name.

Power.

May construct wharves, &c.

Proviso.

Capital stock \$300,000, in shares of \$100 each.

No shares issued under par.

Privileges, restrictions, &c.

and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

SECTION 4. This act shall take effect from and after its passage. [*Approved April 24, 1857.*]

AN ACT relating to the Pasturing of Cattle or other Animals in Streets or Ways. *Chap. 82.*

Be it enacted, &c., as follows :

The mayor and aldermen of any city, and the inhabitants of any town in this Commonwealth, shall have power and authority to make suitable by-laws or regulations to prevent the pasturing of cattle or other animals upon any or all of the streets or ways in such city or town, either with or without a keeper, and may annex any penalty, not exceeding twenty dollars, for the violation thereof; the same to be approved and enforced in manner as provided by section thirteenth of the fifteenth chapter of the Revised Statutes: *provided*, that no such by-law or regulation shall affect the rights of any person or persons to the use of land within the limits of such way adjoining his own premises. [*Approved April 24, 1857.*]

By-laws relating to pasturing cattle upon highways.

Proviso.

AN ACT concerning the Fairhaven Mutual Marine Insurance Company, and the Attleborough Mutual Fire Insurance Company. *Chap. 83.*

Be it enacted, &c., as follows :

SECTION 1. The Fairhaven Mutual Marine Insurance Company, in the town of Fairhaven, and the Attleborough Mutual Fire Insurance Company, in the town of Attleborough, are hereby authorized to file a notice of the acceptance by them of their respective charters, with the secretary of the Commonwealth, within thirty days from the passage of this act; and the filing of the same, shall have the same effect as if it had been filed agreeably to the requirements of the statutes of this Commonwealth, regulating the business of insurance companies.

Notice to secretary of Commonwealth.

SECTION 2. This act shall take effect from and after its passage. [*Approved April 24, 1857.*]

AN ACT authorizing Transcripts of Town or City Records.

Chap. 84.

Be it enacted, &c., as follows :

SECTION 1. Any town or city in this Commonwealth may cause to be carefully transcribed, such of its records as relate to grants of lands, or the grants or divisions and allotments of lands made by the original proprietors of such township, or to any easements or private rights, or its records relating

Certified copies filed with clerk to have same credit as originals.

to ways, or any records of births and marriages, kept by such town or city, or by any parish within the same; and such transcripts, having been first compared and certified, under oath, by the clerk of such town or city for the time being, and deposited in the office of said clerk, shall have the force, effect, and credit of original records.

Certified copies of records to be furnished to towns or cities, set off, &c.

SECTION 2. Any town or city, whose territory, in whole or in part, has been, or may hereafter be, set off from any other town or city, may cause to be carefully transcribed such of the records, named in the first section of this act, as relate to lands, easements, rights or ways situated in the territory so set off; and such transcripts, being compared and certified, under oath, by the clerk of the town or city where such records are kept, and deposited in the clerk's office of the town or city in which the land is situated to which they relate, shall have the force, effect, and credit of original records of such last named town or city.

Records to be free of access, &c.

SECTION 3. The records of any town or city shall be open to the free access and examination of any suitable person appointed to transcribe therefrom, in accordance with section second of this act; and the clerk of such town or city, shall, for a reasonable fee to be paid therefor, compare and certify such transcripts, when properly and correctly made.

Duty of clerks in relation to record of marriages.

SECTION 4. The clerk of every city and town in this Commonwealth, shall make a certified copy of the record of all marriages, recorded in the books of said city or town, where either or both of the parties married, were resident in any other town in the Commonwealth at the time of said marriage; and he shall also, as far as the same is practicable, make a like copy of all such marriages recorded in any parish records, or in any records kept by any clergyman or magistrate within said town; and the said clerk shall transmit said certified copies to the clerk of the city or town in which such party or parties were resident at the time of said marriage, and the clerk so receiving such certified copies shall record the same in a book to be kept for that purpose.

Compensation.

And the clerks of the several cities and towns shall receive a reasonable compensation for the services so rendered, to be paid by their respective cities or towns: *provided, however*, that the provisions of this section shall apply only to marriages solemnized prior to the year eighteen hundred. [Approved April 24, 1857.]

Proviso.

AN ACT to protect the Menhaden Fishery in the Towns of Duxbury, Plymouth, and Kingston. *Chap. 85.*

Be it enacted, &c., as follows :

SECTION 1. Every person who shall, between the first day of May and the first day of November, inclusive, in each year, deposit the offal or waste dressing of the menhaden fish upon the shores or flats, or throw the same into the waters of the bays, harbors, rivers or creeks of the towns of Duxbury, Plymouth or Kingston, shall for each and every such offence, forfeit and pay a sum not exceeding fifty dollars, one-half to the complainant, and the remainder to the town within whose jurisdiction the offence was committed, to be sued for and recovered in any court competent to try the same, on complaint of any one of the selectmen, or any legal voter of either of the towns of Duxbury, Plymouth or Kingston. Penalty for depositing offal, &c.

SECTION 2. Any boat, craft, vessel or fishing apparatus, used by persons violating the provisions of this act, may be seized and detained not exceeding forty-eight hours, by the selectmen of either of the towns aforesaid, in order that the same, if need be, may be attached or arrested by due process of law, to satisfy said fine with costs. Boats, &c., liable to seizure.

SECTION 3. This act shall take effect from and after its passage. [*Approved April 24, 1857.*]

AN ACT in addition to "An Act to establish the Fort Hill Corporation." *Chap. 86.*

Be it enacted, &c., as follows :

A further time of four years from the twenty-seventh day of April, eighteen hundred and fifty-seven, is hereby allowed for complying with the provisions of the seventh section of an act to establish the Fort Hill Corporation, passed on the twenty-eighth day of April, eighteen hundred and fifty-four, to which this act is an addition: *provided, however,* that this additional act shall be void and of no effect unless the same shall be accepted by the city council of the city of Boston within one year from the passage thereof. [*Approved April 24, 1857.*] Further time allowed.

AN ACT to incorporate the Lagoon Pond Company, in Dukes County. *Chap. 87*

Be it enacted, &c., as follows :

SECTION 1. Bayes Norton, Darius Norton, Elisha T. Smith, and their associates and successors, are hereby made a corporation by the name of the Lagoon Pond Company, in Dukes county, and are empowered to build a dam across said pond, about or from that part of the pond called Long Corporators. Name. Purpose.

Point, for the purpose of creating a herring and perch fishery; and said company shall have the exclusive right to said herring and perch fishery: *provided*, that all persons may take fish from said pond with hook and line, and may spear eels, or dig clams therefrom.

Proviso. SECTION 2. The said company shall make said dam, within two years from the passage of this act; and said dam shall be of sufficient width and strength, with a good and sufficient bridge, so that it can be used as a public highway.

Dam built in two years. SECTION 3. The said dam shall not injure by its height any of the surrounding meadows, or take away or injure any existing right of any person or corporation whatever.

Not to affect existing rights. SECTION 4. For the above named purposes, said company shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, contained in the forty-fourth chapter of the Revised Statutes.

Privileges, restrictions, &c. SECTION 5. If any person, without leave from said company, shall take any fish from said pond, except as provided in this act, they shall forfeit for each offence, a sum not exceeding twenty dollars, which may be recovered in any court competent to try the same. [*Approved April 24, 1857.*]

Penalty for fishing without leave.

Chap. 88. AN ACT in relation to the form of Bond to be given by Executors who are Residuary Legatees.

Be it enacted, &c., as follows :

Form of bond when executor is residuary legatee. SECTION 1. The judge of probate may permit any executor who is also residuary legatee, to give bond with condition to pay all the debts and legacies of the testator, and such sums as may be allowed by the judge of probate for necessaries to the widow or minor children of the testator, instead of the bond prescribed by the second section of the sixty-third chapter of the Revised Statutes, if it shall satisfactorily appear to such judge that the bond last named is not necessary for the protection of any person interested in the estate of the testator. The bond herein prescribed shall be in a sum and with sureties to the satisfaction of such judge, and payable to him or his successor: and when such bond shall be given, the executor shall not be required to return any inventory.

Bond not to discharge lien of creditors on real estate, excepting, &c. SECTION 2. The giving of such bond, as is provided in the preceding section, shall not discharge the lien on the real estate of the testator, for the payment of his debts, excepting only on such part thereof as shall have been sold by the executor to one who purchased in good faith,

and for a valuable consideration; and all the estate not so sold may be taken on execution by any creditor, who is not otherwise satisfied, in like manner, as if a bond had been given in the other form.

SECTION 3. The third and fourth sections of the sixty-third chapter of the Revised Statutes are hereby repealed. Repeal.

SECTION 4. This act shall take effect from and after its passage. [*Approved April 24, 1857.*]

AN ACT extending the time for the location and construction of the Mystic River Railroad. Chap. 89.

Be it enacted, &c., as follows:

The time allowed to the Mystic River Railroad Company, to locate and construct its railroad, is hereby extended two years. [*Approved April 24, 1857.*]

AN ACT to set off a part of the Town of Beverly, and annex the same to the Town of Danvers. Chap. 90.

Be it enacted, &c., as follows:

SECTION 1. So much of the town of Beverly, in the county of Essex, as lies westerly of a line beginning at the bound stone on the line between Beverly and Wenham, situated about two hundred feet easterly, from the dwelling-house of William Moulton; thence running south, nineteen degrees fifteen minutes east, about seventy-seven hundred and thirty feet, to a point on the northerly side of Conant Street, said line passing the barn of Josiah Trask on said street, twenty-nine feet easterly therefrom; thence running south eleven degrees, thirty minutes west, about forty-seven hundred and fifty feet, to a point on the northerly side of Elliot Street; thence running south twenty-five degrees, fifteen minutes west, about twenty-nine hundred and thirty feet to the river,—with all the inhabitants and estates thereon, is hereby set off from the town of Beverly, and annexed to the town of Danvers: *provided, however*, that for the purpose of electing electors of president and vice-president of the United States, senators and representatives to the general court, state and county officers, until the next decennial census shall be taken, in pursuance of the thirteenth article of the amendments to the constitution, or a new apportionment of representatives shall be made, the said territory shall remain and continue to be a part of the town of Beverly, and the inhabitants resident thereon shall be entitled to vote in the choice of such officers, and shall be eligible to the office of representative in the town of Beverly, in the same manner as if this act had not been passed.

Boundaries of territory set off

Proviso.

Inhabitants entitled to vote and eligible to office, &c.

Concerning taxes. SECTION 2. The said inhabitants and estates so set off shall be liable to pay all taxes that have been legally assessed on them by the town of Beverly, in the same manner as if this act had not been passed; and until the next general valuation of estates in this Commonwealth, the town of Danvers shall annually pay over to the said town of Beverly, the proportion of any state or county tax, which the said town of Beverly may have to pay upon the inhabitants and estates hereby set off.

Support of paupers. SECTION 3. The town of Danvers shall be liable for the support of all persons who now do, or shall hereafter stand in need of relief as paupers, whose settlement was gained by, or derived from, a settlement gained or derived within the limits of the territory hereby set off from the town of Beverly and annexed to the town of Danvers.

Selectmen to furnish a correct list of voters. SECTION 4. The selectmen of the town of Danvers, shall annually, until the next decennial census, furnish to the selectmen of the town of Beverly, a list, corrected as required by law, of all persons resident on the territory hereby set off, who shall be entitled to vote in the town of Beverly as aforesaid.

Sum paid to school district. SECTION 5. The inhabitants on the territory hereby set off and annexed to Danvers, shall be assessed by the town of Danvers, a sum sufficient to pay those inhabitants in Rial Side School District, not included within the territory hereby annexed, the full sum of all their taxes paid for the purpose of building the school-house in said district; and the selectmen of Danvers, when said assessment is collected and paid into the treasury, are hereby authorized to pay said inhabitants the amounts due them as aforesaid.

Not liable to pay annuity. SECTION 6. The town of Beverly shall no longer be liable to pay an annuity of twenty dollars, for the benefit of the bridge, or mill proprietors on Porter's River.

SECTION 7. This act shall take effect from and after its passage. [*Approved April 27, 1857.*]

Chap. 91. AN ACT to authorize James A. Knowlton to drive Piles on Blaney's Beach, in Swampscott.

Be it enacted, &c., as follows :

May drive piles and build structure. SECTION 1. James A. Knowlton is hereby authorized to drive and maintain piles upon his land on Blaney's Beach, in Swampscott, and to connect therewith and build thereon, such structure as may be necessary or convenient to aid in repairing and building vessels; and the same shall cover or inclose a space not more than thirty feet wide, and may extend into the sea, one hundred and fifty feet from high-

water mark; and he shall have the right to lay vessels therein, and receive remuneration therefor: *provided*, this act shall in no wise affect or impair the legal rights of any person or persons whatever; and *provided, also*, that the top of said piles shall not be less than three feet above high-water.

SECTION 2. This act shall take effect from and after its passage. [Approved April 27, 1857.]

AN ACT to change the name and location of the Etna Furnace Company. *Chap. 92.*

Be it enacted, &c., as follows:

SECTION 1. Chapter seventy-nine, of the acts of eighteen hundred and thirty-seven, entitled, "An Act to incorporate the Etna Furnace Company," and locating said corporation in the town of Cambridge, in the county of Middlesex, is hereby so amended, as to authorize the said corporation to change its location to East Woburn, in the county of Middlesex, to take the name of the East Woburn Manufacturing Company, and to be allowed to manufacture articles composed of wrought iron and steel, as well as of cast iron.

SECTION 2. This act shall take effect from and after its passage. [Approved April 27, 1857.]

AN ACT concerning the Boston, Barre and Gardner Railroad Company. *Chap. 93.*

Be it enacted, &c., as follows:

SECTION 1. The time allowed to the Boston, Barre and Gardner Railroad Corporation, for constructing their railroad, is hereby extended to the first day of July, in the year one thousand eight hundred and fifty-nine.

SECTION 2. The time, within which application may be made to the county commissioners to estimate damages for land or property taken by said railroad corporation, as provided in the Revised Statutes, is hereby extended for three years, from and after the passage of this act, notwithstanding said corporation may have heretofore filed the location of their railroad. [Approved April 27, 1857.]

AN ACT to incorporate the United States Telegraph Company. *Chap. 94.*

Be it enacted, &c., as follows:

SECTION 1. Moses G. Farmer, Edwin Rogers, their associates and successors, are hereby made a corporation, under the name of the United States Telegraph Company, for the purpose of purchasing, owning and vending Farmer's patent for a printing telegraph, and also for manufacturing and selling the instruments under said patent; with power also

to build, establish and maintain telegraph lines beside the tracks of such railroad companies as may consent thereto, for the use of such railroad companies; and to sell or lease such telegraph lines to said companies, for the exclusive use thereof, upon such terms as may be mutually agreed upon.

Capital stock
\$75,000, may in-
crease to \$200,-
000.

SECTION 2. The capital stock of the said corporation shall be seventy-five thousand dollars; but the same may be increased to any sum not exceeding two hundred thousand dollars, by vote of a majority of the stockholders thereof.

Privileges, re-
strictions, &c.

SECTION 3. The said corporation shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, contained in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and the acts in addition thereto.

SECTION 4. This act shall take effect from and after its passage. [*Approved April 27, 1857.*]

Chap. 95. AN ACT in further addition to an Act to establish the City of Worcester.
Be it enacted, &c., as follows :

School-commi-
tee, how consti-
tuted and chosen

SECTION 1. The qualified voters of each ward of the city of Worcester, at their respective annual meetings, to be held next after the acceptance of this act by the city council of the city of Worcester, shall elect, by ballot, three persons in each ward, who shall be residents of the ward, to be members of the school-committee; and the person who receives the highest number of votes, or in case two or more receive an equal number of votes, the person who is senior by age, shall hold the office for three years, and the person who receives the next highest number of votes, or who is senior by age in the contingency aforesaid, shall hold the office for two years, and the other person shall hold the office for one year; and at every subsequent annual election, one person shall be chosen in each ward to be a member of the school-committee for the term of three years; and the persons so chosen, shall, with the mayor, constitute the school-committee, and have the care and superintendence of the public schools.

Repeal.

SECTION 2. The second section of the one hundred and ninety-first chapter of the acts of the year one thousand eight hundred and fifty, entitled, "An Act in addition to an Act to establish the City of Worcester," is hereby repealed.

Act void unless,
&c.

SECTION 3. This act shall be void unless the city council of said city shall vote to accept the same, within sixty days from the passing thereof. [*Approved April 27, 1857.*]

AN ACT in addition to "An Act to authorize the County Commissioners of Middlesex County to lay out a Highway and construct a Bridge over Mystic River, in the Town of Medford." *Chap. 96.*

Be it enacted, &c., as follows :

Said commissioners may cause said bridge to be constructed so that any part of the same may be taken up and removed, or they may cause a good and sufficient draw and passage way to be constructed in said bridge ; and said draw shall be raised, or the parts of said bridge removed and restored, and every necessary accommodation afforded to vessels having occasion to pass through the same, by said town of Medford. [*Approved April 28, 1857.*]

Bridge and draw constructed to accommodate vessels.

AN ACT for the better Preservation of Municipal Records.

Chap. 97.

Be it enacted, &c., as follows :

SECTION 1. It shall be the duty of the city government of the several cities, and of the selectmen of the several towns in this Commonwealth, to provide, at the expense of such cities or towns, a fire-proof safe of ample size, for the safe preservation of books of record, or registry and other important documents or papers belonging to such cities or towns, respectively : and it shall be the duty of the city clerk of each city, and of the town clerk of each town, to keep all such books of record or registry, and such important papers and documents, in the safe so provided, at all times, except when they shall be wanted for use.

Cities and towns to provide fire-proof safes, &c.

SECTION 2. For every month that any city or town shall neglect to fulfill the requirements of this act, it shall forfeit and pay the sum of ten dollars ; and any city clerk or town clerk, failing to comply with the provisions of this act, shall be subject to a fine of ten dollars : one-half of all fines paid for violation of this act, shall inure to the complainant, and one-half to the Commonwealth.

Penalty for neglect.

SECTION 3. This act shall go into effect on the first day of October next. [*Approved April 30, 1857.*]

When to go into effect.

AN ACT to authorize Daniel B. Tarr, and others, to build a Wharf.

Chap. 98.

Be it enacted, &c., as follows :

SECTION 1. Daniel B. Tarr, William Tarr and William J. Tarr, are hereby authorized to build, extend and maintain a wharf fifty feet in breadth, extending from their land on the north-westerly side of Five Pound Island, so called, in the harbor of Gloucester, a distance not exceeding seventy-five feet, in a north-westerly direction from high-water mark, and shall have the right to lay vessels at the end and sides

Wharf in Gloucester.

Rights, &c.

Proviso. thereof, and to receive wharfage and dockage therefor: *provided*, that this grant shall in no wise impair the legal rights of any person or corporation.

SECTION 2. This act shall take effect from and after its passage. [*Approved April 30, 1857.*]

Chap. 99. AN ACT in addition to an Act to incorporate the Proprietors of the Sunderland Bridge.

Be it enacted, &c., as follows :

Bridge between
Sunderland and
Deerfield.

SECTION 1. The proprietors of Sunderland Bridge are hereby authorized and empowered to reconstruct their bridge, or any part thereof, between the towns of Sunderland and Deerfield, over the Connecticut River, not less than twenty-two feet wide,—any thing in former statutes to the contrary notwithstanding.

Tolls.

SECTION 2. Said proprietors shall keep their bridge at all times, in safe, convenient and passable repair, and they are hereby authorized to receive the tolls, now established by law, for the term of fifty years from the day of the reopening of the bridge for public travel.

SECTION 3. This act shall take effect from and after its passage. [*Approved April 30, 1857.*]

Chap. 100 AN ACT relating to Warren Bridge.

Be it enacted, &c., as follows :

Agent may lease
wharf.

SECTION 1. The agent of Charles River and Warren Bridges, is hereby authorized to lease, for a period not exceeding ten years, the northerly portion of the wharf adjoining the draw of Warren Bridge, on the easterly side thereof: *provided*, that such lease shall be first approved by the governor and council.

Proviso.

SECTION 2. This act shall take effect from and after its passage. [*Approved April 30, 1857.*]

Chap. 101 AN ACT to continue in force an Act to incorporate the Lowell Mutual Fire Insurance Company.

Be it enacted, &c., as follows :

Act continued.

The act to incorporate the Lowell Mutual Fire Insurance Company, passed on the sixth day of March, in the year one thousand eight hundred and thirty-two, shall continue and remain in force for the term of twenty-eight years from and after the sixth day of March, in the year one thousand eight hundred and sixty: and the said company, incorporated by said act, shall continue through that term; with all the powers and privileges, and subject to all the duties, restric-

Privileges, re-
strictions, &c.

tions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes, and all the existing statutes, and such as may hereafter be in force, relating to mutual fire insurance companies. [*Approved April 30, 1857.*]

AN ACT extending the time for the construction of the Agricultural Branch Railroad. *Chap. 102*

Be it enacted, &c., as follows :

The time allowed to the Agricultural Branch Railroad Company, to construct its railroad, is hereby extended two years. [*Approved April 30, 1857.*]

Time for construction extended.

AN ACT to authorize the County Commissioners of Norfolk County, and other persons, to lay out Ways across Muddy River. *Chap. 103*

Be it enacted, &c., as follows :

SECTION 1. The county commissioners of Norfolk county are hereby authorized and empowered to lay out and construct ways, by means of bridges or culverts, across and over that part of Muddy River which lies above the culvert under the Punch Bowl Road, so called, belonging to the Boston and Roxbury Mill Corporation, near Appleton Place, so called, in Roxbury.

Commissioners to construct ways across Muddy River.

SECTION 2. Persons owning lands situated upon the part of Muddy River aforesaid, may construct roads across and over said river, by bridges or culverts, in the same manner and to the same extent as if the same had never been navigable water.

Owners of lands may construct, &c.

SECTION 3. All ways or roads constructed across and over such river as aforesaid, shall be so made as not to flow the lands above the culvert first above mentioned.

Not to flow, &c.

SECTION 4. This act shall take effect from and after its passage. [*Approved April 30, 1857.*]

AN ACT concerning the Milford and Woonsocket Railroad Company. *Chap. 104*

Be it enacted, &c., as follows :

SECTION 1. The time for locating and constructing the Milford and Woonsocket Railroad, is hereby extended two years.

Time for location and construction extended.

SECTION 2. The Milford and Woonsocket Railroad Corporation is hereby authorized to increase its capital stock, by the sum of twenty-five thousand dollars, to be divided into shares of one hundred dollars each; and no shares shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares first issued.

Capital increased \$25,000.

No shares issued under par.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 2, 1857.*]

Chap. 105 AN ACT in addition to an Act entitled, “ An Act in relation to Mortgages.”
Be it enacted, &c., as follows :

Proceedings in suits for redemption of mortgaged estates.

SECTION 1. In all suits in equity to redeem estates mortgaged, the court in which such suit shall be pending, or any justice thereof, may, at any time after the bill is filed, in term time or in vacation, ascertain, by reference to a master or otherwise, and determine whether any and what sum not in dispute, is due on such mortgage, and may, by an interlocutory order, direct the same to be paid to the mortgagee, or the clerk of the court, for his use.

Same subject.

SECTION 2. In all suits in equity to redeem estates mortgaged, wherein the party claiming the right to redeem alleges that he has tendered or offered to pay the sum due on the mortgage, the party claiming such right shall, when he files his bill, pay to the clerk of the court, for the use of the party entitled to the same, such sum as he alleges in his bill that he has tendered or offered to pay as the sum due on such mortgage. [*Approved May 4, 1857.*]

Chap. 106 AN ACT in addition to an Act to incorporate the Proprietors of India Wharf.

Be it enacted, &c., as follows :

Shares to become personal property.

SECTION 1. The shares of the individual proprietors in the corporate property of the “ Proprietors of India Wharf,” shall hereafter be personal property, and shall be held, transferred and disposed of as such : *provided*, the said proprietors of India Wharf shall, at a meeting duly held, accept this act : and *provided, also*, that all the shareholders shall, by deeds duly executed, with release of dower, when necessary, convey to the said corporation the shares by them respectively held.

Proviso.

Corporate property to be divided into shares.

SECTION. 2. Upon such conveyances being made, the said corporation shall, by vote, divide their corporate property into such a number of shares as they may think expedient, and shall issue to each proprietor a certificate of so many shares as shall be equal to his interest in the corporate property conveyed by him to the said corporation, as aforesaid.

Form of certificate.

The said corporation may, by their by-laws, prescribe the form of such certificate and the mode of transfer of the new shares for which such certificate is issued.

Trustees, &c., authorized to convey shares, &c.

SECTION 3. In case any of the shares in the said corporate property shall, at the time when such conveyances shall be made, be held by trustees, executors or guardians, such trustees, executors and guardians are hereby authorized to convey the same to the said corporation, and in lieu thereof

to receive certificates of so many of the new shares as shall be equal to their respective interests: *provided, however,* Proviso. that the new shares, so received, shall be taken and held by them respectively, upon the same trusts, and for the same uses and purposes, and subject to the same limitations, as the shares by them so conveyed to the said corporation shall be holden at the time of such conveyance; and *provided,* Provided, also. *also,* that such trustees, executors and guardians, shall give sufficient bond to the judge of probate for the county in which they shall respectively have been appointed; or in case their appointment shall have been by deed, to the judge of probate for the county in which they shall respectively reside, to hold and account for the said shares and the proceeds thereof, according to the terms of their respective trusts. But such bond may be in any case dispensed with, *provided,* the same shall not be required by the terms of the deed or will creating such trust; and *provided, also,* that all the parties beneficially interested in the trust fund, shall so request in writing, and shall cause such request, with the approval of the judge of probate thereon, to be filed in the probate office for the county in which such bond would otherwise be given.

SECTION 4. In case any of the shares in the said corporate property, so conveyed, shall be, at the time of such conveyance, held by any married woman in her own right, the new shares, issued to such married woman shall also be held by her in her own right, in the same manner as married women are authorized to hold property for their own use, according to the provisions of the statute of eighteen hundred and forty-five, chapter two hundred and eight, and the same shall appear in the certificate issued for such shares. Shares held by married women, &c.

SECTION 5. The taxes on the real estate owned by the said corporation shall be assessed to the said corporation, and, in assessing the individual proprietors for their shares, there shall first be deducted from the value thereof, the value of such real estate. Assessment of taxes.

SECTION 6. So much of the act passed the third day of March, in the year eighteen hundred and eight, as provides that the shares of the individual proprietors, in the corporate property of the said proprietors, shall be real estate, and be subject to the incidents of real estate, and so much of the said act as is inconsistent with the provisions of this act, is hereby repealed. Partial repeal. [Approved May 4, 1857.]

Chap. 107 AN ACT regulating the payment of Fines and Forfeitures in Criminal Cases.

Be it enacted, &c., as follows :

Fines, costs, &c.,
to be paid to
sheriffs.

SECTION 1. All fines, forfeitures and costs imposed or awarded in criminal prosecutions by the supreme judicial court, the court of common pleas, the superior court for the county of Suffolk, and the municipal court for the city of Boston, to the use of the Commonwealth or county, or the city of Boston, and all sums found to be due on forfeited recognizances, shall be certified by the clerks of said courts, under the direction of the court, to the sheriff of the county, who alone is authorized to receive them, and he shall, within one month after the receipt of such fines, forfeitures or costs, pay the same, without deduction, to the county treasurer, except that the sheriff for the county of Suffolk shall pay the same to the city treasurer of Boston; and if such sheriff shall neglect to make such payment for the space of thirty days, the county treasurer in other counties, and the city treasurer of Boston, in Suffolk county, shall sue for and recover of him in an action of contract, the amount of such fines, forfeitures, forfeited recognizances and costs, with interest from the time of receiving the same, at the rate of twelve per cent., and costs of suit; and if such sheriff, having any person in his custody, by virtue of the sentence of the court, shall voluntarily, or negligently suffer any such person to escape, he shall be deemed to have received such fines, forfeitures, forfeited recognizances and costs, at the time of the escape, and shall be held liable to pay over the same, with interest and costs of suit, in like manner as in other cases provided for in this section.

Sheriffs to pay to
county treasur-
ers.

Liability for neg-
lect to pay.

Payments to dep-
uty or jailer, val-
id.

SECTION 2. Payment of any sums mentioned in this act, made to the jailer, or any deputy-sheriff, shall be deemed a legal and valid payment to the sheriff.

Sheriffs make
semi-annual re-
turns.

SECTION 3. Every sheriff shall, twice in each year, on the first days of January and July, render to the treasurer to whom the said sums are made payable, an account, upon oath, of all the sums which he shall have received during the six months preceding, for fines, forfeitures, forfeited recognizances and costs, and the names of the persons from whom received, and against whom awarded; and if any sheriff shall neglect, for a period of thirty days, to render such account, he shall be liable to a penalty of two hundred dollars, to be sued for and recovered of him in the same manner and to the same use as provided for in the second section.

Penalty for neg-
lect.

Partial repeal.

SECTION 4. So much of the ninth section of the one hundred and forty-first chapter of the Revised Statutes, as is

inconsistent with the provisions of this act, is hereby repealed. [*Approved May 4, 1857.*]

AN ACT in addition to an Act to incorporate the Quincy Fire and Marine Insurance Company. *Chap. 108*

Be it enacted, &c., as follows :

Whenever the Quincy Fire and Marine Insurance Company shall have increased their capital stock to one hundred thousand dollars, according to the provisions of their charter, the said company may change their location from the town of Quincy, in the county of Norfolk, to the city of Boston, in the county of Suffolk. [*Approved May 4, 1857.*]

May change location.

AN ACT to authorize Francis Butters and others to build a Wharf. *Chap. 109*

Be it enacted, &c., as follows :

Francis Butters, Francis Butters, junior, Henry A. Butters and James D. White, are hereby authorized to build and maintain a wharf, from land owned by them on the northerly side of the Merrimac River, in the town of Haverhill, to a line in said river, described as follows, to wit: Beginning at a point ten feet southerly of the south-westerly corner of said White's wharf, in range with the westerly line of said White's land; thence running easterly one hundred and eighty-five feet, to a point ninety-five feet southerly from a permanent bank wall, on said Francis Butters, Francis Butters, junior, and Henry A. Butters' land, and in range with the easterly line of said land; and they are authorized to lay vessels at said wharf, and receive wharfage and dockage therefor: *provided*, this act shall in no wise affect the legal rights of any corporations or persons whatever. [*Approved May 4, 1857.*]

Wharf in Haverhill.

Rights, &c.

Proviso.

AN ACT to change the name of the Third Orthodox Congregational Society, in Danvers. *Chap. 110*

Be it enacted, &c., as follows :

SECTION 1. The Third Orthodox Congregational Society, in Danvers, shall be known and called by the name of the Maple Street Church and Society, in Danvers, and as such, shall hold and possess all the property, and be entitled to all the rights and privileges, and subject to all the liabilities of the said Third Orthodox Congregational Society, in Danvers. *Name changed.*

SECTION 2. This act shall take effect from and after its passage. [*Approved May 4, 1857.*]

Chap. 111 AN ACT to establish the Salary of the Assistant-Clerk of the Superior Court of the County of Suffolk.

Be it enacted, &c., as follows :

Salary estab-
lished.

SECTION 1. The assistant-clerk of the superior court of the county of Suffolk, shall receive for his services, the sum of eighteen hundred dollars, payable quarterly, out of the treasury of the city of Boston.

Repeal.

SECTION 2. So much of the fourteenth section of the four hundred and forty-ninth chapter of the laws of the year eighteen hundred and fifty-five, as is inconsistent herewith, is hereby repealed.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 4, 1857.*]

Chap. 112 AN ACT to establish a Police Court in the Town of Framingham.

Be it enacted, &c., as follows :

Court established

SECTION 1. A police court is hereby established in the town of Framingham, to consist of one competent and discreet person, to be appointed and commissioned by the governor, pursuant to the constitution, as standing justice.

Jurisdiction in
Framingham.

SECTION 2. The said court shall have original and exclusive jurisdiction over all crimes, offences and misdemeanors committed within said town of Framingham, whereof justices of the peace now have or may have jurisdiction; also of all suits and actions which may now, or at any time hereafter be heard, tried and determined before any justice of the peace in the county of Middlesex, whenever all the parties shall reside in Framingham and service of the writ is had on the defendant in said county. The said court shall have original and concurrent jurisdiction, with justices of the peace, in said county of Middlesex, over all crimes, offences, and misdemeanors, whereof justices of the peace, within the county of Middlesex, now have or may have jurisdiction; also of all suits and actions within the jurisdiction of any justice of the peace within the county of Middlesex. Any justice of the peace within said town of Framingham, may receive complaint and issue a warrant for any crime, offence or misdemeanor committed within said town; but all such warrants shall be made returnable before said police court.

Jurisdiction in
Middlesex.

Jurisdiction not
limited by rea-
son, &c.

SECTION 3. The jurisdiction of said police court shall not be limited by reason of any interest on the part of the justices of said court, in the payment of fines, forfeitures or costs, into the treasury of said town of Framingham.

Appeals.

SECTION 4. An appeal shall be allowed from all judgments of said police court, in like manner, and to the same extent

that appeals are now allowed by law from judgments of justices of the peace : and the justice of said police court shall not be counsel for any party in any cause which may be pending in said court.

SECTION 5. All fines and forfeitures, and all costs in criminal prosecutions which shall be received by, or paid into, the hands of the justice of said court, shall be by him accounted for and paid over to the same persons, in the same manner, and under the same penalties as are by law prescribed in the case of justices of the peace. All costs in such prosecutions not thus received, shall be made up, taxed, certified and allowed, and shall be paid in like manner as is provided by law in cases of justices of the peace.

Fines, forfeitures, &c., how accounted for.

SECTION 6. The justice of said court shall retain to his own use all fees by him received, or which now accrue to justices of the peace in civil actions, and criminal prosecutions, in full compensation for all services assigned to him by the provisions of this act : *provided*, that he shall not retain for his services in criminal prosecutions a sum exceeding five hundred dollars, annually, but shall pay over to the county treasurer all fees received by him in criminal prosecutions over and above that sum.

Compensation of justice.

SECTION 7. A court shall be held by said justice at some suitable place in said town of Framingham, to be provided at the expense of said justice, on one day of each week at nine o'clock in the forenoon, and as much oftener as may be necessary, to take cognizance of crimes, offences and misdemeanors, and on two several days in each month, to be appointed and made known by said justice, at nine o'clock in the forenoon, and at such other times as may be necessary, for the entry and trial of civil actions. The justice of said court may adjourn said court, as justices of the peace may now adjourn the same hearings or trials, and he shall from time to time, establish all necessary rules for the orderly and uniform conducting of the business thereof.

Court, how often to be held.

SECTION 8. The justice of said court shall keep a fair record of all proceedings in said court, and shall make return to the several courts, of all legal processes and of his doings therein, in the same manner as justices of the peace are now by law required to do.

Shall keep a fair record and make return.

SECTION 9. There shall be appointed by the governor, by and with the advice and consent of the council, one special justice of said court, who shall have power in case of the absence, sickness, interest, or any other disability of the standing justice, to issue the processes of said court, to hear and determine any matter or cause pending, and to exercise

One special justice.

all the powers of the standing justice until such disability shall be removed. The said special justice shall be paid for the services by him performed, out of the fees received in said court, such sum as the standing justice would be entitled to for the same service: *provided, however*, that the amounts received by both the standing and special justices, for services in criminal prosecutions, shall not exceed the sum of five hundred dollars.

Compensation.
Proviso.
Pending suits. SECTION 10. All suits, actions, and prosecutions which shall be pending within the town of Framingham, before any justice of the peace, when this act shall take effect and the standing justice of said police court shall have been duly appointed and qualified, shall be heard and determined as though this act had not passed.

Appointment of justices. SECTION 11. The governor shall have power, by and with the advice and consent of the council, to appoint said standing and special justices at any time after receiving notice of the acceptance of this act, by the town of Framingham, as hereinafter mentioned.

Act to be accepted by the town. SECTION 12. This act shall be void, unless the inhabitants of the town of Framingham, at a legal meeting called for that purpose, shall accept the same within sixty days from the passage hereof: and it shall be the duty of the selectmen and town clerk of said town of Framingham, to certify that fact to his excellency the governor, if the town should so vote to accept this act. [*Approved May 4, 1857.*]

Chap. 113 AN ACT to establish Terms of the Probate Court for the County of Barnstable.

Be it enacted, &c., as follows:

Additional term established. SECTION 1. In addition to the terms of the court of probate now required by law to be held for the county of Barnstable, there shall be hereafter a court of probate held annually at the probate office in Barnstable, on the second Tuesday of February.

Place for holding court changed. SECTION 2. The court of probate, now required by law to be held at Yarmouth, in said county, on the second Tuesday of August, shall be hereafter held at the probate office in Barnstable on said day.

Time for holding courts changed. SECTION 3. The probate court now required by law to be held at Dennis, in said county, on the last Monday of October in each year, shall be hereafter held at said Dennis, on the Thursday next after the second Tuesday of October in each year: and the courts of probate, now required by law to be held at Harwich, on the Tuesday after said last Monday; at Orleans, on the Wednesday after said last Monday; at Well-

fleet, on the Thursday after said last Monday; and at Provincetown, on the Friday after said last Monday, shall be hereafter held as follows: at Harwich, on the last Monday of October; at Orleans, on the Tuesday after said last Monday; at Wellfleet, on the Wednesday after said last Monday; and at Provincetown, on the Thursday after said last Monday, in each year.

SECTION 4. This act shall take effect from and after its passage: and all suits, processes and proceedings which may have been commenced in the probate courts for said county, shall have day, and be heard and determined, in said probate court, at the times and terms above established, as fully and effectually as the same might have been done in said court, if this act had not been passed. Of suits, processes, &c.

SECTION 5. So much of the fifty-fifth section of the eighty-third chapter of the Revised Statutes, and of all other acts and parts of acts, as is inconsistent with the provisions of this act, is hereby repealed. Inconsistent acts repealed. [Approved May 4, 1857.]

AN ACT relating to Pitcher's Bridge, in Huntington, in the County of Hampshire. *Chap. 114*

Be it enacted, &c., as follows:

SECTION 1. One-half of Pitcher's Bridge, so called, which crosses the Westfield River, in Huntington, in the county of Hampshire, shall, hereafter, be supported, amended and sustained at the expense and charge of the county aforesaid. County to support one-half of bridge.

SECTION 2. It shall be the duty of the county commissioners, of the county aforesaid, to carry the provisions of this act into effect. Duty of commissioners.

SECTION 3. This act shall take effect from and after its passage. [Approved May 4, 1857.]

AN ACT to authorize Cities and Towns to set out Shade Trees.

Chap. 115

Be it enacted, &c., as follows:

SECTION 1. The mayor and aldermen of any city, or the selectmen of any town, by which this act shall be accepted, are hereby authorized to set out and maintain shade trees, upon the public squares and highways, at the expense of such city or town. Cities and towns may set out shade trees.

SECTION 2. Any city or town may appropriate annually, for the purposes aforesaid, a sum not exceeding twenty-five cents for each of its ratable polls in the year next preceding that in which such appropriation shall be made. May make appropriations.

SECTION 3. This act shall not take effect in any city or town, until it shall have been accepted by the city council of such city, or by the inhabitants of such town, at a legal meeting. When to take effect. [Approved May 4, 1857.]

Chap. 116 AN ACT ceding Jurisdiction over certain Lands on Billingsgate Island to the United States.

Be it enacted, &c., as follows :

Jurisdiction
ceded.

SECTION 1. Jurisdiction is hereby ceded and granted to the United States of America, over such lot of land, not exceeding six acres, as may be selected for the construction of a light-house and keeper's dwelling, to replace that destroyed on Billingsgate Island, in this Commonwealth, during the winter of 1856-1857: *provided*, that this Commonwealth shall retain, and does retain, concurrent jurisdiction with the United States, in and over the said lot of land, so far that all civil and criminal processes issued under the authority of this Commonwealth, or any officer thereof, may be executed on any part of said lot of land, or in any building which may be erected thereon, in the same way and manner as if jurisdiction had not been granted as aforesaid.

Proviso.

Act void, unless,
&c.

SECTION 2. This act shall be void, unless a suitable plan of said lot of land mentioned in the first section, shall be made and filed by the United States, in the office of the secretary of this Commonwealth, within one year from the purchase of the said land by the United States.

When to take ef-
fect.

SECTION 3. This act shall take effect from and after the purchase of the said land by the United States. [*Approved May 4, 1857.*]

Chap. 117 AN ACT to authorize Charles Friend and Nathaniel Friend to extend their Wharf, in Gloucester.

Be it enacted, &c., as follows :

May extend
wharf.

SECTION 1. Charles Friend and Nathaniel Friend are hereby authorized to extend their wharf, in the harbor of Gloucester, a distance not exceeding sixty feet, in a south-easterly direction towards the channel: *provided*, that this grant shall in no wise impair the legal rights of any person or corporation.

Proviso.

SECTION 2. This act shall take effect from and after its passage. [*Approved May 4, 1857.*]

Chap. 118 AN ACT to amend the Charter of Westfield Academy.

Be it enacted, &c., as follows :

Partial repeal—
relative to resi-
dence of trustees.

SECTION 1. So much of the act entitled, "An Act for establishing an academy in the town of Westfield, in the county of Hampshire, by the name of Westfield Academy," passed June seventeenth, seventeen hundred and ninety-three, as requires that a major part of the trustees of said academy shall consist of men who are not inhabitants of said town of Westfield, is hereby repealed.

SECTION 2. This act shall take effect on and after its passage. [Approved May 4, 1857.]

AN ACT in addition to "An Act to cede to the United States Jurisdiction over certain Lands and Shoals in the City and Harbor of New Bedford, and for other purposes." *Chap. 119*

Be it enacted, &c., as follows :

The consent of this Commonwealth is hereby granted to the United States' taking possession of such and so much land on Clark's Point, in the city of New Bedford, as the United States shall deem needful for the purposes of military defense, upon just and full compensation being provided for the owners thereof, or of any easement in or over the same, in the manner prescribed by law, for damages sustained by individuals whose lands are taken for public highways in this Commonwealth; but the consent so given, shall not impede the execution of any process, civil or criminal, issued under the authority of this Commonwealth, except so far as such process may affect the real or personal property of the United States, within the said territory. [Approved May 4, 1857.]

Consent to possession granted.

Not to impede execution of processes.

AN ACT to authorize Henry F. Pitman to extend his Wharf.

Chap. 120

Be it enacted, &c., as follows :

Henry F. Pitman, proprietor of a wharf nearly opposite the foot of State Street, in Marblehead, is hereby authorized to extend and maintain the same sixty feet in a south-easterly direction; and he shall have the right to lay vessels at the end and sides of said wharf, and receive wharfage and dockage therefor: *provided, however,* that this grant shall not impair the legal rights of any person. [Approved May 4, 1857.]

May extend wharf.

Proviso.

AN ACT to incorporate the Fall River Young Men's Christian Association. *Chap. 121*

Be it enacted, &c., as follows :

SECTION 1. Robert K. Remington, Walter Paine, 3d, William H. Mason, their associates and successors, are hereby made a corporation by the name of the Fall River Young Men's Christian Association; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes: and said corporation may hold real and personal estate to the value of ten thousand dollars, to be devoted to the promotion of moral and religious instruction.

Corporators.

Name.

Privileges, restrictions, &c.

Real and personal estate \$10,000.

SECTION 2. All donations, devises and bequests of real or personal estate which may heretofore have been, or hereafter

Donations, &c.

may be made to the Fall River Young Men's Christian Association, or to the executive committee thereof, shall be and inure to the use and benefit of the corporation hereby created, to be appropriated, however, to the purposes designated in any such donation, devise or bequest.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 4, 1857.*]

Chap. 122

AN ACT concerning the State Prison at Charlestown.

Be it enacted, &c., as follows :

Five assistant-watchmen.

SECTION 1. In addition to the officers now authorized by law to be employed at the State prison, the warden is authorized and empowered to appoint not exceeding five officers, to be denominated assistant-watchmen.

Salary.

SECTION 2. The salary of the assistant-watchmen above named, shall be at the rate of six hundred dollars each per year. [*Approved May 4, 1857.*]

Chap. 123

AN ACT authorizing the removal of the Office of the Register of Deeds for the Northern District of Berkshire, from Lanesborough to Adams.

Be it enacted, &c., as follows :

Registry of deeds removed.

SECTION 1. On and after the first day of January, in the year one thousand eight hundred and fifty-eight, the office of the register of deeds, required by the one hundred and twelfth section, of the fourteenth chapter of the Revised Statutes to be kept at Lanesborough, in the county of Berkshire, shall be kept at Adams, in said county; and all deeds, conveyances and other instruments, now required by law to be recorded at the office of the register in said Lanesborough, shall then in like manner be recorded in said office, in said Adams; and all the books, records and papers belonging to said county, deposited and kept in the office, at said Lanesborough, shall, under the direction of the county commissioners of said county, be removed to, and deposited in the office at said Adams.

Commissioners authorized to convey, &c.

SECTION 2. The county commissioners of said county of Berkshire are hereby authorized, after the removal of said office, as set forth in the first section hereof, to sell and convey on behalf of said county, the building at Lanesborough, in which the office of the register of deeds is now kept, and the land on which said building stands, or whatever interest in said building and land said county has or then may have, on such terms as they shall deem for the best interest of said county.

Act shall be void, unless, &c.

SECTION 3. This act shall be void, and of no effect, unless,

before said first day of January, in the year eighteen hundred and fifty-eight, there shall be provided at the south village of said Adams, free of all expense to said county, such a building for the office of said register of deeds as is now required by law to be provided for the several registers of deeds in the Commonwealth, and as shall be to the acceptance of the county commissioners for said county of Berkshire, and the title thereof, and of the land on which it may stand, secured to said county by suitable conveyances, to the satisfaction of said commissioners. [*Approved May 4, 1857.*]

AN ACT to discontinue a crossing, at grade, upon the Warren Bridge, and for other purposes. Chap. 124

Be it enacted, &c., as follows:

SECTION 1. The Fitchburg Railroad Company are hereby empowered to extend south-easterly, in a straight line, the extreme north-easterly line of their railroad bridge, across Charles River, from a point south-east of the draw and pier thereof, across the old Warren Bridge, until such line shall intersect the south-westerly side of the new bridge, constructed by said company, leading from the old Warren Bridge, toward Beverly Street; and they may close the crossing upon their said railroad bridge, and may inclose and appropriate, use and maintain, for railroad and station purposes exclusively, all that section of the old Warren Bridge which lies south-west or south of the line above defined, and between it and their south-westerly line, described in the third section hereof, a part of which is included in their location; and they may discontinue the gate they are now required to maintain upon each side of said crossing, and the Commonwealth shall be thenceforth exonerated from the maintenance of any part of the old Warren Bridge, between the lines within described. Line of railroad defined.

SECTION 2. The said company are hereby required to construct a brick sidewalk, with granite curb-stones, conforming in width and mode of construction to the sidewalks of Warren Bridge, from the southerly end of the brick sidewalk upon the west side of said Warren Bridge, along the north-easterly side of the line above defined, until it reaches the sidewalk on the north-easterly side of the passenger house and other structures of said company, and shall, with reasonable despatch, remove the snow and ice that may, from time to time, collect upon such new sidewalk, and shall relinquish to the Commonwealth, for the purpose of widening said new bridge structure, such part of their location and structures Company to construct sidewalk, &c.

as lies on the north-easterly side of the line above defined.

Line extended in Boston.

SECTION 3. The said company may extend north-westerly, their south-westerly line upon Haverhill Street, in the city of Boston, from the commencement of the curve on Haverhill Street, in a straight line, to the north-easterly end of the pile wharf of the Boston and Maine Railroad, at its intersection with Warren Bridge.

Corporation to pay certain sum as indemnity to Commonwealth.

SECTION 4. And whereas said company have been required by law, to maintain a new bridge structure, connecting with, and forming a part of Warren Bridge, and have offered to commute for one gross sum, the annual charges to which they are subject for the maintenance thereof; and whereas the said company, by the terms hereof, derive from the Commonwealth certain rights and privileges, and have offered to pay therefor a sum of money which shall be a fair equivalent for all the rights and privileges so derived, after allowance for the rights relinquished and duties assumed by said company, it is hereby provided that said company may, at any time within the current year, pay into the State treasury, such sum of money as shall, with the interest thereon, suffice for such maintenance and repairs, with such further sum as shall fully indemnify the Commonwealth for all the rights and privileges conveyed or secured to said company by the provisions of this act; and the amount thus to be paid, shall be determined by Josiah G. Abbott, esquire, one of the justices of the superior court for the county of Suffolk, whose decision, in writing, shall be filed with the State treasurer, and shall be conclusive as to the amount; and after such amount shall have been duly paid into the treasury of this Commonwealth, the said company shall be forever exonerated from the expenses of the repair and maintenance of such bridge structure, and from all charges and expenses incident thereto.

Amount how determined.

Amount to be paid to State treasurer.

SECTION 5. The amount thus to be determined shall be paid by said company to the State treasurer, who shall give a receipt therefor, and the amount shall be added by him to the fund accumulating from the tolls of the Warren and Charles River Bridges, specified in the sixth section of the four hundred and fifty-first chapter of the acts of the legislature of Massachusetts for the year eighteen hundred and fifty-four. And when the said fund, including the sum thus added, shall amount to one hundred thousand dollars, the treasurer of the Commonwealth shall give notice to the governor, who shall thereon publicly declare said bridges free from toll.

Bridges, when to be declared free.

SECTION 6. The amount thus to be determined by Josiah G. Abbott, esquire, as aforesaid, shall be paid by said company into the State treasury before the said crossing is inclosed as herein provided. And if said amount so fixed and certified by said Abbott, shall not be paid by said company into the treasury aforesaid within sixty days after his decision in writing shall have been filed therein as aforesaid, upon the certificate of the State treasurer stating the fact of such non-payment, said Abbott shall certify his said decision in writing to the supreme judicial court then next to be held within and for the county of Suffolk, and said court shall have cognizance thereof in the same manner, and the same proceedings shall be had thereon, as if such decision had been made by referees appointed by a rule of the same court, except as hereinafter provided. Judgment shall be rendered thereon against said company and in favor of the Commonwealth, in the same manner as upon a like award made by referees appointed by a rule of the court, and execution shall issue accordingly.

Amount—when to be paid.

Proceedings in case of non-payment.

SECTION 7. The small triangular portion of the Warren Bridge which lies on the south-westerly side of the north-westerly line of said Fitchburg Railroad Company hereby established, shall remain open for access to the estates of said company, and of the Boston and Maine Railroad, who shall maintain the same. [Approved May 7, 1857.]

Portion of bridge to remain open.

AN ACT concerning the Criminal Courts in the County of Worcester. *Chap. 125*

Be it enacted, &c., as follows :

SECTION 1. The term of the court of common pleas, for the transaction of criminal business for the county of Worcester, which is now required by law to be held in the town of Fitchburg, on the first Monday of June, shall hereafter be held at the same place, on the second Monday of August, annually.

Time of holding Court Common Pleas changed.

SECTION 2. This act shall take effect from and after its passage. [Approved May 7, 1857.]

AN ACT to extend the time for building the Ware River Railroad. *Chap. 126*

Be it enacted, &c., as follows :

SECTION 1. The time for locating and constructing the Ware River Railroad, is hereby extended two years beyond the time now required by law.

Time for location &c., extended.

SECTION 2. This act shall take effect from and after its passage. [Approved May 7, 1857.]

Chap. 127 AN ACT authorizing Abner R. Tucker and others to plant Oysters in Apponigansett River.

Be it enacted, &c., as follows :

Authorized to plant oysters. SECTION 1. Abner R. Tucker, David H. Bartlett, their associates and successors, citizens of Dartmouth, in the county of Bristol, are hereby authorized to plant, grow and dig oysters in the waters and flats of Apponigansett River, from a point in said river known as the old Mill-dam, thence down said river to Dumplin Light, so called, thence across said river in a direct line, from one headland to the other.

Exclusive use for twenty years. SECTION 2. Abner R. Tucker, David H. Bartlett, their associates and successors, shall have the exclusive use of said water and flats, from high-water mark, within the bounds prescribed, for the purpose of planting, growing, and digging oysters, for the term of twenty years. And if any person shall, within said limits, dig or otherwise take any oysters during said term, without license from the above-named persons, their associates and successors, they shall be punished by imprisonment in the county jail for a time not exceeding thirty days.

Not to infringe upon rights, &c. SECTION 3. Nothing in this act shall be so construed as to infringe upon the rights of any owner of land on which said oysters may be planted, or the rights which persons now have to take other shell fish in said Appouigansett River.

SECTION 4. This act shall take effect from and after its passage. [*Approved May 7, 1857.*]

Chap. 128 AN ACT concerning the Boston and Lowell Railroad Corporation, and certain Railroad Companies connecting therewith.

Be it enacted, &c., as follows :

Connecting track SECTION 1. The Boston and Lowell Railroad Corporation, and the Fitchburg Railroad Company, are hereby authorized and required to construct a connecting track between their railroads in Somerville, near their railroad bridge, by which the Boston and Lowell Railroad now passes over the Fitchburg and Grand Junction Railroads, in place of the connection which has been interrupted.

May take land, &c. SECTION 2. The Fitchburg Railroad Company, and the Boston and Lowell Railroad Corporation, are each of them hereby expressly authorized to take any land that shall be required to make their respective portions of said connection, filing a location thereof, and paying therefor, according to the provisions of law.

Location and grade. SECTION 3. The said connecting track shall commence in the said Fitchburg Railroad, at or near the Asylum Avenue,

so called, and the grade thereon shall not exceed sixty feet per mile : and said Boston and Lowell Railroad Corporation and Fitchburg Railroad Company, may use and maintain such track as a substitute for the connecting track heretofore maintained across the Grand Junction Railroad.

SECTION 4. The railroad bridge by which the said Boston and Lowell Railroad is carried across the Fitchburg and Grand Junction Railroads, is hereby sanctioned and confirmed, and shall not be disturbed in the construction of such connecting track, but shall be maintained at the level prescribed by the act directing the construction of the same. Railroad bridge not to be disturbed.

SECTION 5. Such connection shall be made under the direction of the commissioner appointed under the two hundred and ninety-sixth chapter of the acts of eighteen hundred and fifty-six ; and the Grand Junction Railroad and Depot Company, their successors and assigns, may use the same, and shall be liable to pay a proportionate part of the cost thereof, to be recovered in the manner, and with all the rights and remedies for the recovery thereof, set forth in said last named chapter, and in any other act or acts that shall be passed relating thereto. [*Approved May 8, 1857.*] Commissioner to have direction, &c.

AN ACT to repeal section second of the one hundred seventy-first chapter of the Acts of eighteen hundred fifty-six. *Chap. 129*

Be it enacted, &c., as follows :

SECTION 1. The second section of the one hundred and seventy-first chapter of the acts of eighteen hundred and fifty-six is hereby repealed. Partial repeal.

SECTION 2. This act shall take effect on and after its passage. [*Approved May 8, 1857.*]

AN ACT to change the name of the Worcester District Methodist Episcopal Church Camp-Meeting Association. *Chap. 130*

Be it enacted, &c., as follows :

SECTION 1. The corporation heretofore known as the "Worcester District Methodist Episcopal Church Camp-Meeting Association," shall hereafter be known under the name and title of the Sterling Camp-Meeting Association. Name changed.

SECTION 2. This act shall take effect from and after its passage. [*Approved May 8, 1857.*]

Chap. 131 AN ACT to incorporate the Trustees of the Wesleyan Church in Duxbury.

Be it enacted, &c., as follows :

Corporators. SECTION 1. Isaac Dunham, William Ellison, Allen Prior
Name. and their successors, are hereby made a corporation by the
Privileges, re- name of the trustees of the Wesleyan Church in Duxbury ;
strictions, &c. with all the powers and privileges, and subject to all the
duties set forth in the forty-fourth chapter of the Revised
Statutes.

Corporation may SECTION 2. Said corporation may receive, hold and man-
hold real and age for the benefit of the Wesleyan Church, in Duxbury, all
personal prop- erty, both real and personal, which was bequeathed or
erty, &c. devised by the will of the late Seth Sprague, of Boston, for
the benefit of said church : and all other property, both real
and personal, now held or owned by said church, or by any
person or persons, as a trustee or trustees, or otherwise, for
the benefit of said church, and also to receive, hold and
manage, for the benefit of said church, any and all other
property, both real and personal, which may by any means
be given or conveyed to said corporation : *provided*, the
Proviso. whole amount of property to be holden by said corporation,
shall not at any time exceed the sum or value of thirty
thousand dollars.

Vacancies, &c. SECTION 3. Said corporation may make by-laws, and fill
all vacancies that may occur in their body, by death, resig-
nation or otherwise.

SECTION 4. This act shall take effect from and after its
passage. [*Approved May 8, 1857.*]

Chap. 132 AN ACT to define the Rights of the Children of Non-resident Parents to attend Public Schools.

Be it enacted, &c., as follows :

Right to attend SECTION. All children, between the ages of five and fifteen years,
public schools. shall be entitled to attend the public schools of the city or
town in which they shall reside for the time being : *provided*,
Proviso. *however*, that if any child shall attend a public school in any
city or town of this Commonwealth, other than that in which
the parent or guardian of such child may reside, and shall
have resided in such city or town for the sole purpose of
attending such school, the consent of the school committee
of such city or town shall first be obtained, and the parent
or guardian of such child shall be liable to pay, to such city
or town, for the tuition of such child, a sum equal to the
average expense, per scholar, for such school, for the period
such child shall have so attended. [*Approved May 8, 1857.*]

AN ACT relating to Land taken for Public Ways.

Chap. 133

Be it enacted, &c., as follows :

Whenever any land shall be taken for the location or alteration of any highway, and the owner thereof shall have had no notice in fact of such location or alteration, he shall be entitled to have a jury to assess the damages occasioned thereby, upon application made in accordance with the provisions of the twenty-fourth chapter of the Revised Statutes, at any time within six months from the time such location or alteration shall come to his knowledge: *provided*, that the time for such application shall not be extended beyond the period of six months after the road, so located or altered, shall be opened for public travel. [*Approved May 8, 1857.*]

Owners may apply for jury.

Proviso.

AN ACT to authorize Hiram Brooks to extend his Wharf.

Chap. 134

Be it enacted, &c., as follows :

Hiram Brooks, proprietor of a wharf situated in Cambridge, on the westerly side of Charles River, and on the northerly side of the Hancock Free Bridge Corporation, is hereby authorized to extend the same, two hundred and five feet, in an easterly direction, bounded northerly on the southerly line of Broad Canal, and southerly on the northerly line of the Hancock Free Bridge Corporation; and he shall have the right to lay vessels at the end and side of said wharf, and receive wharfage and dockage therefor: *provided, however*, that this act shall in no way impair or affect the legal rights of any person or corporation whatever. [*Approved May 8, 1857.*]

May extend wharf in Cambridge.

Rights, &c.

Proviso.

AN ACT to incorporate the Jamaica Pond Aqueduct Corporation.

Chap. 135

Be it enacted, &c., as follows :

SECTION 1. George H. Williams, Arthur W. Austin and Thomas B. Williams, their associates and successors, are hereby made a corporation by the name and title of the Jamaica Pond Aqueduct Corporation; and the provisional agreement made by the city of Boston with the said George H. Williams by which the said city have agreed to convey their interest in all the property, estates and privileges, except that of supplying or distributing water within the limits of the city of Boston, of the aqueduct corporation which was incorporated by act passed the twenty-seventh day of February, seventeen hundred and ninety-five, is hereby authorized, sanctioned and confirmed; and the sale by said city of Boston to said George H. Williams, of all the property, estates and privileges which the said city of Boston

Corporators.

Name.

Certain acts confirmed.

was authorized to purchase of the aqueduct corporation, by the sixteenth section of the act passed March thirtieth, eighteen hundred and forty-six, is hereby authorized.

May bring water from Jamaica Pond.

SECTION 2. The said Jamaica Pond Aqueduct Corporation are hereby authorized and empowered to bring the water from Jamaica Pond, from the same source and point from which the aqueduct corporation incorporated in the said year seventeen hundred and ninety-five, brought the said water; and shall have full power and lawful authority, by subterraneous pipes, to bring water from said Jamaica Pond, and supply the same to the city of Roxbury, to the town of Brookline, and to the town of West Roxbury; and for this purpose the said Jamaica Pond Aqueduct Corporation shall have, use and enjoy the same rights, privileges and easements, for supplying pure water to the towns and city aforesaid, as were had, used and enjoyed by the aqueduct corporation for the dispensing water to the city of Boston; and to enable the said corporation to supply the said city of Roxbury and towns aforesaid, the said corporation are hereby fully authorized and empowered to open the ground in any part of the streets and highways in the city of Roxbury and town of West Roxbury and town of Brookline, for the purpose of sinking and repairing such pipes and conductors as it may be necessary to sink for the purpose aforesaid: *provided*, that the said highways and streets shall not be opened or used by the said corporation in such manner as to obstruct or hinder the citizens of the Commonwealth; and the said corporation, after opening the ground in any of the said streets or highways, shall be held to put the same again in repair to the satisfaction of the authorities of the said city and towns respectively; *provided, also*, that in excavating for the purposes of laying the pipes or repairing the same, the work shall be done agreeably to the direction of the board of mayor and aldermen of the city of Roxbury, and in the towns of West Roxbury and Brookline, under the direction of the selectmen of those towns respectively: *and it is further provided*, that the city of Roxbury shall be allowed the privilege of inserting ten hydrants into the main pipes of the aqueduct at such points as may be indicated by the city authorities of Roxbury, with the right of using the water in cases of fire, but for no other purpose whatever, without the special permission of the directors of the corporation.

Rights, privileges, &c.

May open ground lay pipes, &c.

Proviso.

Provided, also.

Provided further.

May enter upon and lay down pipes, &c.

SECTION 3. The said corporation be, and they are hereby authorized and empowered, for the purpose of extending their supply of fresh water, to enter upon and improve for

the laying down subterraneous pipes, the corporate or private estate of any person, town or corporation whatsoever, within the boundaries of the city of Roxbury, town of West Roxbury, or town of Brookline; and the said corporation are hereby empowered to take, hold, purchase, or improve, for the purpose of laying down subterraneous pipes, any land not exceeding ten feet in width in the territory of the said city and towns aforesaid, and shall at all times have free ingress and egress into and from the same in order to lay down, inspect, renew and repair the said pipes; and the said corporation shall be held to pay all damages which shall accrue to any party by the taking, holding or improving the land aforesaid, for the purposes aforesaid; and where the damages cannot be adjusted satisfactorily by the parties, the damages may be estimated by the county commissioners of the county of Norfolk, saving to either party the right of trial by jury, according to the law which provides for the recovery of damages accruing by laying out public highways. All claims for damages shall be preferred by the party entitled to demand the same, within twelve months from the time when the ground shall have been taken or first entered upon in manner as herein before mentioned; and the said corporation, after having opened any of the ground aforesaid, for the purposes aforesaid, shall be held to put the same again in proper condition. Said corporation shall be liable for any loss or injury that any person or persons may sustain by reason of any carelessness, neglect or misconduct of said corporation, or of any of its agents or servants; and in case any recovery shall be had against either of said towns or against said city of Roxbury in consequence of any such carelessness, neglect or misconduct, or in consequence of any act of said corporation, or of its servants or agents, said corporation shall be liable to pay to said towns and said city of Roxbury, respectively, any sums thus recovered against them, together with all costs and reasonable expenditures incurred by said towns and said city of Roxbury, or either of them, in defence of such suit or suits in which such recovery may be had; but nothing herein contained shall be construed as creating any obligation or liability on the part of said towns or said city of Roxbury, beyond that which now exists by law.

Damages, how settled.

Corporation liable, &c.

SECTION 4. The capital stock of said corporation shall not exceed the sum of one hundred thousand dollars, to be divided into shares of one hundred dollars each; and no shares shall be issued for a less sum, to be actually paid in on each, than the par value of the shares which shall first be issued:

Capital stock not to exceed \$100,000.
Shares \$100 each.
No shares issued under par.

and said corporation may establish the capital stock at fifty thousand dollars, with power, by vote of two-thirds of the stockholders in interest, to increase the same to one hundred thousand dollars; and said corporation shall have power to purchase and hold such real estate, within said city of Roxbury and towns aforesaid, as may be necessary or convenient for the purposes and management of said Aqueduct Corporation.

Rights, privileges, &c., of corporation.

SECTION 5. And the said Jamaica Pond Aqueduct Corporation are hereby authorized and empowered to draw the water from the said pond, from the same point established and limited by the easement, privileges and rights acquired by the Aqueduct Corporation, chartered in the year seventeen hundred and ninety-five, and no farther, without the consent of the inhabitants of the town of West Roxbury, in town meeting assembled; and all the rights, interests and estate of the town of West Roxbury, in said pond, are hereby reserved, as to cutting ice, or any other general use or appropriation thereof, which does not impair the rights and privileges and easements of the said Jamaica Pond Corporation, as aforesaid: and the said Aqueduct Corporation shall, whenever requested by the selectmen of West Roxbury, so draw off the water, that the banks of said pond shall not be washed away or otherwise injured.

Rights, &c., of West Roxbury.

Rights limited to furnish water, &c.

SECTION 6. The said Jamaica Pond Aqueduct Corporation shall have no right, after the passage of this act, to supply any water from Jamaica Pond to the city of Boston, or to the inhabitants thereof, unless especially authorized and requested by the city authorities of Boston; and the right of supplying water shall be limited to the city of Roxbury and to the towns aforesaid: but if any change in the municipal jurisdiction, over a whole or a part of the territory now known as the city of Roxbury, should take place, nothing in this act shall be so construed as to take away the right to supply the whole or any portion of such territory.

Right of parties entitled to damages.

SECTION 7. When any claim for damages shall be preferred by any party for laying down, renewing or repairing the pipes of said Corporation, as provided for in the third section, said damages shall be paid within three months after the same shall be fixed and determined; and if not so paid, the party entitled to such damages shall have the right to take up and remove said pipes on his premises; and they shall not be relaid till said damages are paid. [*Approved May 8, 1857.*]

AN ACT authorizing the Boston and Worcester Railroad Corporation to change the location of a portion of their road, and for other purposes. *Chap. 136*

Be it enacted, &c., as follows :

SECTION 1. The Boston and Worcester Railroad Corporation are hereby authorized and empowered to change the location of that portion of their road which lies between the Brighton Station, so called, on the line of said road, and the point of the intersection of said road with the boundary line between the towns of Brighton and Newton, or of any part or parts of said portion, by locating, constructing and maintaining a railroad between said points, or for any part or parts of the distance between said points, in such manner and over such land as the directors of said corporation may deem expedient. Location changed

SECTION 2. The location of the railroad hereby authorized to be constructed shall be filed within one year, but said railroad may be constructed at any time within two years. Location filed.

SECTION 3. Such change shall not waive or impair any rights or interests said corporation now have : and said corporation may retain or discontinue any part of their present road between said points, which they shall deem it expedient to release or to discontinue. Rights of corporation.

SECTION 4. In regard to locating, constructing and maintaining the railroad hereby authorized to be constructed, said corporation shall have all the rights and privileges, and be subject to all the duties, liabilities and restrictions, given and imposed by their charter, or by the special acts in relation to said corporation, or by the general laws at any time in force, in relation to railroads. Privileges, restrictions, &c.

SECTION 5. All persons who shall sustain any damage in their property by locating, constructing or maintaining said railroad, shall have all the remedies provided by law for persons whose land or other property is taken for the construction and maintenance of railroads. [*Approved May 9, 1857.*] Damages.

AN ACT relating to the Roxbury Gas-Light Company.

Chap. 137

Be it enacted, &c., as follows :

SECTION 1. The Roxbury Gas-Light Company is hereby authorized to lay pipes through Seaver Street, in the town of West Roxbury, and to furnish gas to the owners or occupants of all buildings on the West Roxbury side of said street, until such time as the Jamaica Plain Gas-Light Company shall give notice, in writing, to the said Roxbury Gas-Light Company, of their readiness to furnish gas to said May lay pipes and furnish gas, in West Roxbury.

owners or occupants: and the said Roxbury Gas-Light Company shall have the right to continue and maintain their pipes in said street, for the purpose of supplying gas to the inhabitants on the Roxbury side of said street, and any street lamps on the northerly side thereof.

May open ground
sink pipes, &c.

SECTION 2. The said Roxbury Gas-Light Company, with the consent of the selectmen of the town of West Roxbury, shall have power and authority to open the ground in any part of said Seaver Street, in said town, for the purpose of sinking and repairing such pipes and conductors, as it may be necessary to sink for the purposes aforesaid; and the said company, after opening the ground in said street, shall be held to put the same again in repair, under the penalty of being prosecuted for a nuisance: *provided, however*, that said selectmen, for the time being, shall, at all times, have the power to regulate, restrict and control the acts and doings of said company, which may in any manner affect the health, safety or convenience of the inhabitants of said town.

Proviso.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 9, 1857.*]

Chap. 138

AN ACT concerning the Brush Hill Turnpike Corporation.

Be it enacted, &c., as follows:

Road and fran-
chisesurrendered

SECTION 1. The surrender of that portion of the road and franchise of the Brush Hill Turnpike Corporation, which is within the limits of the town of Milton, and of any right of said corporation therein, is hereby accepted, and said corporation is discharged from the liability to maintain and keep said road in repair; and the said road may be laid out as a highway or town way, without any rights on the part of said corporation to compensation or damages therefor: and until the same shall be laid out as aforesaid, the said town shall give notice that the same is not a public way.

Rights under pre-
vious statutes not
to be affected.

SECTION 2. Nothing in this act contained shall affect any rights accruing or to accrue under or by virtue of the provisions of the seventeenth section of the thirty-ninth chapter of the Revised Statutes; but the proprietors of lands abutting on said way, or over which said way passes, are not to be entitled to any additional damages or compensation upon the laying out of the same as a town way or highway, other than such as may be recoverable under the provisions of said seventeenth section. [*Approved May 9, 1857.*]

AN ACT to protect Mariners and Ship-Owners from imposition.

Chap. 139

Be it enacted, &c., as follows :

SECTION 1. No person shall board, or attempt to board any vessel arriving in Boston harbor, Salem harbor, Fall River harbor, or the harbor of New Bedford and Fairhaven, before said vessel has been made fast to the wharf, without obtaining leave from the master or person having charge of said vessel, or leave, in writing, from the owner or owners, or agent thereof, under a penalty of not more than fifty dollars for each offence.

Vessels arriving in certain harbors, — boarding without leave forbidden.

Penalty.

SECTION 2. If any person, not having obtained leave as aforesaid, shall board any vessel whatever, in either of the harbors aforesaid, after having been ordered not to do so, by any person having charge of such vessel at the time, or if any person shall board such vessel, and shall refuse or neglect to leave her, when ordered to do so, by the person having charge of such vessel, he shall pay a fine of not more than fifty dollars.

Persisting to board when forbidden, and refusing to leave when ordered, penalty for.

SECTION 3. The provisions of the foregoing sections shall not apply to any pilot or public officer visiting a vessel in the discharge of his duty.

Not to apply to pilots, &c.

SECTION 4. No person shall entice or persuade, nor attempt to entice or persuade, any member of the crew of any vessel arriving in either of the above named harbors, or of any vessel about to sail from either of said harbors, to leave or desert said vessel, before the expiration of his term of service in such vessel, under a penalty of not more than fifty dollars for each offence.

Enticing crew to leave, &c., forbidden.

Penalty.

SECTION 5. If any person shall knowingly and wilfully persuade or aid any person who shall have shipped on a voyage from any port in this Commonwealth, and received advanced wages therefor, to wilfully neglect to proceed on such voyage, he shall forfeit a sum not exceeding one hundred dollars, to be recovered as herein provided.

Persuading persons to leave who have received advance wages, penalty for.

SECTION 6. The penalties herein provided may be recovered by complaint in the police court of Boston, when the offence is committed in Boston, or Boston harbor; in the police court of Salem, when the offence is committed in Salem, or Salem harbor; in the police court of Fall River, when the offence is committed in Fall River, or Fall River harbor; and in the police court of New Bedford, when the offence is committed in New Bedford or Fairhaven, or in the harbor of New Bedford and Fairhaven, saving to the party convicted his right of appeal. And any person offending against any provision of this act may be arrested, with or

Penalties, how recovered.

Arrests, how made.

without warrant, by any officer qualified to serve criminal process in the city where the offence is triable: *provided*, that the person arrested shall be forthwith brought before the court.

Harbor lines defined.

SECTION 7. For the purposes of this act, the outer limits of Boston harbor shall be, for any vessel bound to said harbor, the line fixed by the twenty-fourth section of chapter thirty-two of the Revised Statutes; and the outer limits of Salem harbor shall be, for any vessel bound to said harbor, the chops of said harbor; the harbor of Fall River shall be deemed to include the waters of Taunton Great River, and Mount Hope Bay, from the south line of the town of Freetown, to Rhode Island State line, including the shores of Somerset; and the outer limits of the harbor of New Bedford and Fairhaven, for vessels bound to said harbor, shall be the outer limits of Buzzard's Bay; and the harbors of New Bedford and Fairhaven shall be considered as one harbor; and Boston harbor shall be deemed to include the shores of Chelsea and Charlestown; and the word vessel, in this act, shall also include any vessel propelled by steam. [*Approved May 9, 1857.*]

Chap. 140 AN ACT concerning the Waltham and Watertown Railroad Company.

Be it enacted, &c., as follows:

May extend road.

SECTION 1. The Waltham and Watertown Railroad Company are hereby authorized and empowered to extend their railroad, and to construct, maintain, and use a railroad, with convenient single or double tracks, from the dividing line between the towns of Watertown and Newton, to some convenient point at Newton Corner, in said Newton, over and upon such streets or highways in said Newton, as may, from time to time, be fixed by the selectmen of said town, with the assent of said corporation in writing expressed, and filed with said selectmen,—said extension from said town line not to exceed in distance one thousand feet.

Powers, duties, &c.

SECTION 2. The selectmen of Newton shall, in regard to the railroad herein authorized, have all the powers, and be subject to all the duties that the selectmen of Watertown have, or are subject to in regard to the railroad of said corporation in Watertown. And the said corporation, as to the railroad herein authorized within said town of Newton, shall have all the powers and privileges, and be subject to all the liabilities, restrictions and duties that they have, or are subject to by their original act of incorporation.

Time for construction.

SECTION 3. Any location which the said company shall

hereafter acquire, either in Watertown or Newton, shall be void unless the said company shall construct their road in conformity thereto, within six months from the time that said location shall be granted. [*Approved May 9, 1857.*]

AN ACT to amend and consolidate the several Acts concerning Imprisonment for Debt and the Punishment of Fraudulent Debtors. *Chap. 141*

Be it enacted, &c., as follows :

SECTION 1. Imprisonment for debt, except in cases of fraud, is hereby forever abolished in Massachusetts. Imprisonment for debt abolished.

SECTION 2. Wilful and intentional neglect to apply property not exempt from being taken on execution, to the payment of a debt; or the conveyance or concealment, or other disposal of property by a debtor, with design to defraud or delay creditors in the collection of their debts, or the hazarding and payment of money or other property, to the value of one hundred dollars or more, by a debtor, in any kind of game prohibited by the laws of this Commonwealth, or the wilful expenditure and misuse by a debtor of his goods and estate for the purpose of enabling himself to take the oath hereinafter provided for the relief of poor debtors; or the contracting of a debt with an intention not to pay the same, shall be considered as a fraud, and shall be punished as hereinafter provided. Fraud defined.

SECTION 3. If the plaintiff in any suit, or any person in his behalf, after execution is issued amounting to twenty dollars, exclusive of costs, and while twenty dollars thereof, exclusive of costs, remain uncollected, shall make affidavit and prove to the satisfaction of any justice of any court of record, police court, judge of probate, master in chancery or commissioner of insolvency, or if no such magistrate can be conveniently found, any justice of the peace and of the quorum, that he believes, and has reason to believe,—

First,—that the defendant has property, not exempt from being taken on execution, which he does not intend to apply to the payment of the plaintiff's claim; or,

Second,—That since the debt was contracted, or the cause of action accrued, the debtor has fraudulently conveyed or concealed, or otherwise disposed of his estate, or some part thereof, with a design to secure the same to his own use, or to defraud his creditors; or,

Third,—That since the debt was contracted, or the cause of action accrued, the debtor has hazarded and paid money or other property, to the value of one hundred dollars or more, in some kind of gaming prohibited by the laws of this Commonwealth; or,

Body may be arrested on execution,—on what conditions.

Fourth,—That since the debt was contracted, the debtor has wilfully expended and misused his goods or estate, or some part thereof, for the purpose of enabling himself to swear that he has not any estate to the amount of twenty dollars, except such as is exempted from being taken on execution ; or,

Fifth,—(if the action was founded on contract,)—That the debtor contracted the debt with an intention not to pay the same ;—which affidavit, and the certificate of the magistrate that he is satisfied there is reasonable cause to believe the charges therein contained, or some one of them, are true, shall be annexed to the execution,—then, and not otherwise, the execution may be served by the arrest of the body. The form of execution shall be the same as now provided by law, and when issued by a justice of the peace, the affidavit may be made before him, and the certificate may be granted by him.

Proceedings after arrest.

SECTION 4. The defendant, when arrested, shall be allowed reasonable time to procure sureties, and shall be carried before some justice of a court of record, police court, judge of probate, master in chancery, or commissioner of insolvency ; or, if no such magistrate can be conveniently found, before some justice of the peace and of the quorum, who shall, if the defendant desires to take the oath for the relief of poor debtors, issue notice thereof to the plaintiff, which notice shall be served by giving to the plaintiff, his agent or attorney, an attested copy thereof, or by leaving such copy at the last and usual place of abode of the plaintiff, his agent or attorney, allowing not less than one hour before the time appointed for the examination, and allowing time for travel at the rate of not less than one day for every twenty-four miles' travel. And when there is more than one person plaintiff, or more than one agent or attorney, service on one shall be sufficient. When the plaintiff is dead, or not a resident in the county where the arrest is made, the notice shall be served upon the agent or attorney, if he lives in the county, or has his usual place of business therein ; but if no such agent or attorney be found within the county, such notice may be served on the officer who made the arrest.

Poor debtor's oath ; plaintiff to be notified.

Notice, how served.

SECTION 5. Such notice may be served by any officer qualified to serve civil process. The person who made the writ on which execution is obtained, may always be regarded as the attorney of the plaintiff, as to service of notice. And this form of notice, or any equivalent thereto, shall be sufficient :—

Form of notice

To A—— B—— : C—— D——, arrested on execution in

your favor, desires to take the oath for the relief of poor debtors, at (naming the day and hour,) at (naming the place,) signed with the designation of the capacity of the magistrate.

SECTION 6. When the notice provided for in section four, shall have been duly served, the magistrate shall, at the time and place therein specified, examine the debtor on oath, concerning his estate and effects, and the disposal thereof, and his ability to pay the debt for which he is arrested, and shall hear any other legal and pertinent evidence that may be produced by the debtor or the creditor. And the creditor may, upon such examination, propose to the debtor any interrogatories pertinent to the inquiry, and the examination of the debtor shall, if required by either party, be in writing, in which case it shall be signed and sworn to by the debtor, and preserved by the magistrate.

Examination,
how made.

SECTION 7. If the magistrate issuing the notice does not attend, any other magistrate authorized to act in such cases, may attend and act at the time and place specified. And the magistrate before whom such examination is had, may adjourn the same from time to time, and shall have the same powers with respect to all other incidents thereto, as justices of the peace or other courts have in civil actions; and witnesses, when duly summoned, shall attend as in civil cases.

What magistrate
may act.

SECTION 8. If, upon such examination, the magistrate shall be satisfied of the truth of the facts set forth in the oath to be taken by the debtor, and in the certificate to be made by the magistrate, as herein provided; and if it shall appear to him that the debtor is entitled to his discharge, under the provisions of this act, he shall administer to him the oath hereinafter mentioned.

If magistrate is
satisfied may ad-
minister oath.

The oath shall be as follows, to wit:—

I, (here repeat the name,) do solemnly swear, that I have not any estate, real or personal, to the amount of twenty dollars, except the estate, goods and chattels which are by law exempted from being taken in execution. And that I have not any other estate now conveyed or concealed, or in any way disposed of, with design to secure the same to my own use, or to defraud my creditors: So help me, God.

Form of oath.

SECTION 9. After administering the oath, the magistrate shall make a certificate thereof, under his hand, as follows, to wit:—

Magistrate's cer-
tificate.

S—, ss. I hereby certify, that A— B—, a poor prisoner, arrested upon execution for debt, has caused E— F—, the creditor at whose suit he is arrested, to be notified according to law, of his desire to take the benefit of the law

for the relief of poor debtors; that in my opinion the said A—— B—— has not any estate, real or personal, to the amount of twenty dollars, except the estate, goods and chattels which are by law exempted from being taken in execution. And has not any other estate now conveyed or concealed, or in any way disposed of, with design to secure the same to his own use, or to defraud his creditors. And I have, after due examination of the said A—— B——, administered to him the oath for the relief of poor debtors.

Witness my hand, this —— day of ——, in the year ——.

Discharge of debtor.

Upon taking this oath, the debtor shall be discharged from arrest, and shall be forever exempt from arrest on the same execution, or any process founded on the judgment, unless he shall be convicted of having wilfully sworn falsely on his examination. But the judgment shall remain in full force against any estate which may then or at any time thereafter belong to him, and the creditor may take out a new execution against the goods and estate of the debtor, in like manner as if he had not been committed on the execution.

Judgment good against estate.

Magistrate may take recognizance.

SECTION 10. Pending the examination of a debtor, and at any time after he is carried before a magistrate, the magistrate may accept the recognizance of the debtor, with surety or sureties, in a sum not less than double the amount of the execution, that he will appear at the time fixed for his examination, and from time to time, until the same is concluded, and not depart without leave of the magistrate, making no default at any time fixed for his examination, and abide the final order of the magistrate thereon. Or if the debtor does not desire any time fixed for his examination, the magistrate may take his recognizance as aforesaid, that within ninety days from the time of his arrest, he will deliver himself up for examination, giving notice, as herein provided, and making no default at any time fixed for his examination, and abide the final order of the magistrate thereon: *provided, however*, that no recognizance, as aforesaid, shall be accepted at any time after the oath aforesaid shall have been once refused to the debtor.

Proviso

Debtor to be sent to jail,—in what cases.

SECTION 11. If the debtor, on being carried before the magistrate, as is provided in section four, shall not desire to take the oath for the relief of poor debtors, or shall fail to procure surety to the satisfaction of the magistrate, as provided in the preceding section, or if, upon his examination, said oath shall be refused to him, a certificate thereof shall be annexed to the execution, and signed by the magistrate, and the debtor shall be conveyed to jail and there kept, until he shall have recognized as herein provided, or the execution

be satisfied, or until he shall be released by the creditor, or until he shall have given notice as before provided, and taken the oath for the relief of poor debtors.

SECTION 12. When either of the charges named in the third section of this act, numbered second, third, fourth and fifth, shall be made as therein provided, or whenever the creditor, or any one in his behalf, shall, at any time pending the examination of the debtor, file such charges in writing, subscribed and sworn to by the creditor, or some person in his behalf, the same shall be considered in the nature of a suit at law, to which the debtor may plead that he is guilty or not guilty, and the magistrate may, thereupon, hear and determine the same. And the creditor shall not, upon such hearing, give evidence of any charges of fraud, not made or filed as before provided, nor of any fraudulent acts of the debtor committed more than three years before the commencement of the creditor's original action.

When fraud is charged, what may be done.

SECTION 13. When the said hearing is had on the charges of fraud, mentioned in the preceding section, and judgment is rendered thereon by the magistrate, either party may appeal therefrom to the court of common pleas, in counties other than Suffolk, and to the superior court in the county of Suffolk, in like manner as from the judgment of a justice of the peace in civil actions. And the trial in the court appealed to shall be by a jury, unless the court shall, with the consent of both parties, hear and determine it without a jury.

Either party may appeal.

SECTION 14. If the creditor appeals, he shall, before the allowance thereof, recognize, with sufficient surety or sureties, to enter and prosecute his appeal with effect, and to produce, at the court appealed to, a copy of all the proceedings upon his said charges, and to pay all costs if judgment shall not be reversed. And if the debtor appeals, he shall in like manner recognize, and with the like condition, and with the further condition that if final judgment shall be against him, he will, within thirty days thereafter, surrender himself to be taken in execution and abide the order of the court, or pay to the creditor the whole amount of the original judgment against him.

Proceedings on appeal

SECTION 15. If the debtor, after either of the charges mentioned in section twelve, shall have been made or filed against him, as before provided, shall voluntarily make default at any time appointed for the hearing, or if, upon a final trial, he shall be found guilty of any of them, he shall be refused the oath for the relief of poor debtors, and may moreover be sentenced, by the magistrate or court before whom the trial is had, to confinement at hard labor in the

In case of default or conviction, debtor may be denied oath, &c.

house of correction, for a term not exceeding one year, or to confinement in the county jail not exceeding six months.

Misspending
goods after
arrest.

SECTION 16. If any person arrested on execution shall, after such arrest, misspend or misuse goods, effects or credits to the amount of forty dollars, not exempt from being taken on execution, but which cannot be attached by ordinary process of law, or so much as is equal to the sum for which he is committed, without having first offered the same to the arresting creditor in satisfaction, or part satisfaction of his debts, he shall not be entitled to the benefit of the oath for the relief of poor debtors.

Arrest on *mesne*
process,—proceed-
ings precedent.

SECTION 17. No person shall be arrested on *mesne* process in any action of contract, unless the plaintiff, or some person in his behalf, shall make affidavit and prove to the satisfaction of some justice of a court of record, police court, judge of probate, master in chancery or commissioner of insolvency, or if no such magistrate can be conveniently found, any justice of the peace and of the quorum,—

First,—That he has a good cause of action, and a reasonable expectation of recovering a sum amounting to twenty dollars.

Second,—That he believes, and has reason to believe, the defendant has property not exempt from being taken on execution, which he does not intend to apply to the payment of the plaintiff's claim; and,

Third,—That he believes, and has reason to believe, that the defendant intends to leave the State, so that execution, if obtained, cannot be served upon him; and such affidavit and the certificate of the magistrate that he is satisfied the same is true, shall be annexed to the writ.

Proceedings after
arrest.

SECTION 18. The defendant, when arrested, shall be allowed reasonable time to procure sureties, and shall then be carried before some justice of a court of record, police court, master in chancery or commissioner of insolvency, or if no such magistrate can be conveniently found, before some justice of the peace and of the quorum. And if the defendant desires to take the oath for the relief of poor debtors, the same proceedings shall be had, and the same charges of fraud may be filed as is herein provided in cases of arrest on execution.

Oath same as in
case of arrest on
execution.

SECTION 19. The form of the oath shall be the same as that prescribed in case of arrest on execution; and if the oath be administered to the debtor he shall be discharged, and shall never be liable to arrest for the same cause of action, unless he shall be convicted of having wilfully sworn falsely on his examination.

SECTION 20. If the defendant desires to take an oath that he does not intend to leave the State, he shall be examined, after giving notice as above provided; and if on such examination the magistrate shall be satisfied that the defendant did not, when arrested, and does not at the time of examination, intend to leave the State, he shall make certificate thereof, and the defendant shall be discharged from arrest. And the defendant may give notice of his desire to take both the oaths herein provided for. Additional oath.

SECTION 21. If the defendant on being carried before the magistrate shall fail to procure sureties, and recognize to the satisfaction of the magistrate, as provided in section ten, and shall not give bond as hereinafter provided, or if on his examination he does not swear to the satisfaction of the magistrate, that he does not intend to leave the State, and the oath for the relief of poor debtors is refused him, the magistrate shall make a certificate thereof, and the defendant shall be conveyed to jail and there kept until final judgment in the suit in which he was arrested; and if the final judgment shall be against him, he shall be held for thirty days thereafter, in order that he may be taken in execution: *unless* he shall recognize as aforesaid, or give said bond or take the oath for the relief of poor debtors, or an oath that he does not intend to leave the State, or shall be discharged by the plaintiff. But no recognizance of the defendant, except to prosecute his appeal as provided in section fourteen, shall be taken after the oath for the relief of poor debtors shall have been refused him. In default of bail, &c., debtor to be committed.

SECTION 22. Whenever a debtor shall be arrested on a *mesne* process, he shall be released on giving a bail bond as now provided by law, and such bond may be approved by either of the magistrates mentioned in section three: *provided, however*, that if the defendant shall be sentenced on any charge of fraud as herein provided, the giving such bond shall not discharge him from imprisonment thereon. Shall be released on giving bail.

SECTION 23. No debtor shall be entitled to the benefit of the oath for the relief of poor debtors after a writ of *scire facias* on the bail bond, given by him in the original action, shall have been served upon his bail therein, unless the debtor shall pay all the costs which shall have accrued on such *scire facias*. Proviso.

SECTION 24. When any person, who is committed to prison for the non-payment of taxes, shall be unable to pay the same, he shall be entitled to his discharge in like manner as persons committed on execution. And the notice required in such case to be given to the creditor may be given to Conditions of oath after *scire facias*.

Persons committed for non-payment of taxes entitled to discharge.

either of the assessors or the collector by whom the party was committed. And the assessors and collector, or any of them, may appear and do all things in relation to the proceedings which a creditor might do in case of arrest on execution.

Paupers to be supported by creditor.

SECTION 25. When any person, who is confined in close prison on *mesne* process or execution in any civil action, shall claim support as a pauper, the jailer shall furnish his support at the rate of one dollar and seventy-five cents a week, to be paid by the creditor. And the creditor in such case shall, if required by the jailer, either advance, from time to time, the money necessary for the support of the prisoner, or give the jailer satisfactory security therefor. And if the creditor shall neglect so to do for twenty-four hours after demand, the jailer may discharge the prisoner. And such demand may be made of the officer who commits the debtor, or of the creditor or his attorney, at any time after the prisoner shall have claimed such support.

Sureties may surrender the principal.

SECTION 26. Any person who shall recognize as surety for another as herein provided, may at any time before breach of recognizance, surrender his principal and exonerate himself from all further liability, in the manner provided in the ninety-first chapter of the Revised Statutes for the surrender by bail, and all the proceedings on such surrender shall be the same as is now provided in the case of bail.

New notice not to be given under seven days, &c.

SECTION 27. Whenever any debtor who is arrested on execution or *mesne* process, shall have given notice of his desire to take the oath for the relief of poor debtors, no new notice of the same shall be given until the expiration of seven days from the former notice, unless the former notice be insufficient in form or in the service thereof.

Proceedings when recognizance is broken.

SECTION 28. Whenever any recognizance taken under the provisions of this act shall be broken, the creditor may have remedy thereon by action of contract, to be commenced within one year after such breach, in any court competent to try the same, and judgment shall be entered for the amount of the penalty, but execution shall issue only for so much thereof as may be justly and equitably due: *provided*, that if the recognizance shall have been taken on an execution, the execution shall not issue for less than the amount due on the original judgment, with all the lawful costs and charges that shall arise after the issuing of the original execution.

Fees.

SECTION 29. The fees of the magistrate shall be as follows: For hearing an application for certificate to arrest, one dollar; for approving sureties and taking the recognizance of the debtor after arrest, one dollar; for an examina-

tion, two dollars for each day spent therein. And the creditor causing an arrest shall pay these fees in advance. And in case the oath is not administered to the debtor, they shall be allowed as a part of the service of the writ or execution. And if the creditor shall at any time make default, after request, in the payment of the fees, the magistrate may discharge the debtor: *provided, however*, if after the oath shall have been once refused to the debtor, he shall again apply for the benefit of the same, the fees for such subsequent application and examination thereon shall be paid by the debtor.

SECTION 30. No arrest shall be made after sunset, unless specially authorized by the magistrate making the certificate, upon satisfactory cause shown. And no woman shall be arrested in any civil process, except for tort.

No arrest after
sun set.

No woman arrest-
ed except for tort.

SECTION 31. Sections forty-eight and forty-nine, of chapter eight; sections one hundred and eleven, one hundred and twelve, one hundred and thirteen, one hundred and fourteen, and one hundred and fifteen of chapter ninety; sections forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine and seventy of chapter ninety-seven, and chapter ninety-eight of the Revised Statutes; chapter one hundred and fifty-four of the statutes passed in the year eighteen hundred and forty-four; chapters one hundred and sixty-eight and two hundred and eighty-six of the statutes passed in the year eighteen hundred and forty-eight; section two of chapter one hundred and ninety-nine, and chapter two hundred and twelve of the statutes passed in the year eighteen hundred and fifty; and chapter two hundred and eighty-one of the statutes passed in the year eighteen hundred and fifty-two; and chapter four hundred and forty-four of the statutes passed in the year eighteen hundred and fifty-five, and all other acts and parts of acts, inconsistent herewith, are hereby repealed. But nothing in this act contained shall affect any action or proceeding, commenced or pending when the same shall go into operation, except that all subsequent proceedings therein shall be according to the provisions of this act. [Approved May 13, 1857.]

Acts and parts of
acts repealed.

Proceedings al-
ready commenced
not affected.

Chap. 142 AN ACT to amend the Charter of the Barre and North Brookfield Railroad Company.

Be it enacted, &c., as follows :

Time of construction extended.

SECTION 1. The time, within which the Barre and North Brookfield Railroad may be constructed, is hereby extended for two years from the time now fixed by law, for the construction of so much of said road as lies between the Western Railroad, at East Brookfield, in the town of Brookfield, and North Brookfield Centre, as hereinafter provided.

Alteration in location authorized

SECTION 2. The said company is hereby authorized to construct said road, and may make such alterations in the location of the same, as may be deemed necessary and convenient ; and may operate the said road, when constructed, either by steam or horse power.

Present stockholders released and new subscriptions authorized.

SECTION 3. The present stockholders are hereby released from their subscription to the stock of said road, except so far as they may be liable for debts already contracted ; and said company are hereby authorized to take a new subscription of stock, for the construction of said road from East Brookfield to North Brookfield.

May commence construction, when, &c.

SECTION 4. Said company may commence the construction of said road, whenever a sufficient amount of stock shall have been subscribed therefor, in accordance with this act ; the holders of said stock, at a meeting duly notified therefor, choosing a board of officers, who shall proceed to construct and manage the same.

An estimate of expense, *bona fide* subscription and 20 per cent. of the same paid in, required.

SECTION 5. Before said company shall proceed to construct said road, they shall, by a competent engineer, cause to be made, an accurate estimate of the expense of constructing said road ; and they shall not commence to construct the same, till a *bona fide* subscription to their stock shall be made, to an amount equal to the estimated cost of said road, nor until a certificate shall have been filed with the secretary of the Commonwealth, subscribed and sworn to by the president, and a majority of the directors of said company, that the amount herein before required to be subscribed, has been taken by responsible parties, and twenty per cent. of the same actually paid in ; and no share of said stock shall be issued at less than the par value named in the charter.

No stock at less than par.

SECTION 6. This act shall take effect from and after its passage. [*Approved May 13, 1857.*]

AN ACT to increase the Capital Stock of the Malden Bank.

Chap. 143

Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Malden Bank, in Malden, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Increase of capital authorized.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital stock, herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Remonstrance to be in writing.

SECTION 3. The additional capital aforesaid, when paid into said bank, shall be subject to the same tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Taxation of new stock.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

Certificate to be returned to secretary's office.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 13, 1857.*]

AN ACT to increase the Capital Stock of the Asiatic Bank.

Chap. 144

Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Asiatic Bank, in Salem, are hereby authorized to increase their present capital stock, by an addition thereto of one hundred and five thousand dollars, in shares of thirty dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Increase of capital authorized.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-

Remonstrance to be in writing.

fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Taxation of new stock

SECTION 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be returned to secretary's office.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 13, 1857.*]

Chap. 145 AN ACT in addition to "An Act to establish the Mount Washington Avenue Corporation."

Be it enacted, &c., as follows :

Time of construction extended two years.

The time, within which the Mount Washington Avenue Corporation may construct and complete the unfinished portion of its avenue, between Fore Point Channel and its easterly terminus in South Boston, is hereby extended two years, from the time now allowed by law. [*Approved May 13, 1857.*]

Chap. 146 AN ACT in addition to "An Act to set off a part of the Town of Dorchester, and annex it to the Town of Quincy."

Be it enacted, &c., as follows :

Inhabitants to be deemed residents of Dorchester for certain purposes.

SECTION 1. The inhabitants of so much of the town of Dorchester, as was annexed to the town of Quincy, by the two hundred and sixty-seventh chapter of the acts of the year eighteen hundred and fifty-five, shall be, and be deemed, inhabitants of the town of Dorchester, for the purpose of voting for, and being eligible as representatives in the general court, until the next apportionment of such representatives, in pursuance of the constitution and laws of the Commonwealth, shall take effect.

For other purposes to belong to Quincy.

SECTION 2. For all other purposes, the inhabitants of said territory shall be, and be deemed inhabitants of the town of Quincy.

Taxes.

SECTION 3. Until the next general valuation of estates in this Commonwealth, the town of Quincy shall annually pay over to the town of Dorchester, the proportion of any State or county tax which the said town of Dorchester may have to pay upon the inhabitants and estates so set off. [*Approved May 13, 1857.*]

AN ACT to increase the Capital Stock of the Woburn Bank.

Chap. 147

Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Woburn Bank, in Woburn, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Increase of capital authorized.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital, herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Remonstrance to be made in writing.

SECTION 3. The additional stock aforesaid when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Taxation of new stock.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into the said bank, shall be returned into the office of the secretary of the Commonwealth.

Certificate to be returned to secretary's office.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 13, 1857.*]

AN ACT to incorporate the Massachusetts Peat Coal Company.

Chap. 148

Be it enacted, &c., as follows :

SECTION 1. Samuel Nicolson, Joseph West, Charles E. Miller, William Parkman and Thomas P. Rich, their associates and successors, are hereby made a corporation by the name of the Massachusetts Peat Coal Company, for the purpose of draining and improving peat lands and converting peat into a state more or less solid, and vending the same; and also for the making or purchasing, working and disposing of such discoveries, apparatus and processes as may be necessary or convenient therefor; with all the privileges and powers, and subject to all the duties, restrictions and liabilities, as set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECTION 2. Said corporation may, for the purpose afore-

May hold real estate.

Capital stock. said, hold real estate, not exceeding in value fifty thousand dollars; and the whole capital stock thereof shall not exceed one hundred and fifty thousand dollars.

No shares at less than par. SECTION 3. No shares in the capital stock of said corporation shall be issued for a less amount, to be paid in on each, than the par value of the shares first issued.

SECTION 4. This act shall take effect from and after its passage. [*Approved May 14, 1857.*]

Chap. 149

AN ACT concerning Petitions for Partition.

Be it enacted, &c., as follows :

Petitioner to recover costs, whenever, &c.

Whenever any petition for partition of real estate, is opposed by any respondent therein named, and it shall appear that the petitioner is entitled to have partition as prayed for, the petitioner shall recover against the party so opposing, his costs from and after the filing of the answer or plea, to be taxed as in other civil cases. [*Approved May 14, 1857.*]

Chap. 150

AN ACT to repeal "An Act to provide for the Inspection of Foreign Sumac."

Be it enacted, &c., as follows :

Act for inspection of Sumac repealed.

Chapter three hundred and one of the acts of the year one thousand eight hundred and fifty-one, entitled, "An Act to provide for the Inspection of Foreign Sumac," is hereby repealed. [*Approved May 14, 1857.*]

Chap. 151

AN ACT to repeal "An Act to incorporate Towns and Cities into Mutual Fire Insurance Companies, at their election."

Be it enacted, &c., as follows :

Act incorporating towns, &c., into insurance companies repealed.

The four hundred and thirty-seventh chapter of the acts and resolves passed May twenty-first, eighteen hundred and fifty-five, entitled "An Act to incorporate towns and cities into Mutual Fire Insurance Companies, at their election," is hereby repealed. [*Approved May 14, 1857.*]

Chap. 152

AN ACT to increase the Capital Stock of the Haverhill Bank.

Be it enacted, &c., as follows :

Increase of capital authorized.

SECTION 1. The president, directors and company of the Haverhill Bank, in Haverhill, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Remonstrance to be in writing.

SECTION 2. If any of the stockholders of said bank remon-

strate against the acceptance of the additional capital, herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

SECTION 3. The additional capital aforesaid when paid into said bank, shall be subject to the same tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Taxation of new stock.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

Certificate to be returned to the secretary's office

SECTION 5. This act shall take effect from and after its passage. [*Approved May 14, 1857.*]

AN ACT to authorize the Overseers of the Poor to remove Destitute and Neglected Children to Almshouses. Chap. 153

Be it enacted, &c., as follows :

SECTION 1. The overseers of the poor in any city or town in the Commonwealth, are hereby authorized to remove to the almshouses of their several cities or towns, such children as may be suffering destitution from extreme neglect of dissolute or intemperate parents or guardians.

Overseers of poor may remove children of dissolute parents, &c., to almshouse.

SECTION 2. This act shall take effect from and after its passage. [*Approved May 14, 1857.*]

AN ACT to incorporate the Evangelical Baptist Benevolent and Missionary Society. Chap. 154

Be it enacted, &c., as follows :

SECTION 1. James W. Converse, Frederick Gould, Thomas Richardson, J. Warren Merrill and George W. Chipman, their associates and successors, are hereby made a corporation, by the name of the Evangelical Baptist Benevolent and Missionary Society, to be located in the city of Boston, for the purpose of securing the constant maintenance in said Boston, of evangelical preaching for the young and the destitute, with free seats; for the employment of colporteur and missionary laborers in Boston, and elsewhere; for the purpose of providing suitable central apartments to other and kindred benevolent and missionary societies, and for the general purpose of ministering to the spiritual wants of the needy and destitute; with all the powers and privileges, and

Corporators.

Name.

Purposes.

Privileges, restrictions, &c.

subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

May hold estate to amount of \$350,000.

SECTION 2. Said corporation may hold real and personal estate to the amount of three hundred and fifty thousand dollars, which property and the net income thereof, after the same has been paid for, shall be appropriated exclusively for the purposes in this act specified, and the same shall be exempted from taxation.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 14, 1857.*]

Chap. 155 AN ACT to increase the Capital Stock of the Union Bank, in Haverhill.

Be it enacted, &c., as follows :

Increase of capital authorized.

SECTION 1. The president, directors and company of the Union Bank, in Haverhill, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each; which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Remonstrance to be in writing.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Taxation of new stock.

SECTION 3. The additional capital aforesaid, when paid into said bank, shall be subject to the same tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be returned to secretary's office.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has been actually paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 14, 1857.*]

Chap. 156 AN ACT to prevent the Fraudulent Sale of Personal Property, leased or hired.

Be it enacted, &c., as follows :

Sale by hirer or lessee a misdemeanor.

If any hirer or lessee of personal property shall sell or convey said property, or any part thereof, without the written

consent of the owner or lessor, as the case may be, and without informing the person to whom the same may be sold or conveyed, that said property is so hired or leased, he shall be held guilty of a misdemeanor, and shall be punishable by a fine not exceeding one hundred dollars, or by imprisonment in the county jail or house of correction, for a term not exceeding one year. [*Approved May 14, 1857.*]

Penalty.

AN ACT concerning the Jurisdiction of Police Courts.

Chap. 157

Be it enacted, &c., as follows :

SECTION 1. The several police courts of this Commonwealth shall have concurrent jurisdiction with the court of common pleas and the municipal court of the city of Boston, of all larcenies, where the money or other property stolen shall not be alleged to exceed the value of fifty dollars, and may punish such larcenies by imprisonment in the county jail or house of correction, not exceeding two years, or by fine not exceeding one hundred dollars.

Police courts to have concurrent jurisdiction with C. C. P., &c.,—in what cases.

SECTION 2. Said police courts may, in their discretion, decline to take final jurisdiction in any of the cases referred to in this act, and may send the same, as now, to the court of common pleas or municipal court, for examination and trial. And any person convicted before any police court, under the provisions of this act, may appeal as in other cases.

May decline to take final judgment.

Appeal.

SECTION 3. The four hundred and forty-eighth chapter of the acts of eighteen hundred and fifty-five, is hereby repealed.

Chap. 448 of acts of 1855, repealed.

SECTION 4. This act shall take effect from and after its passage. [*Approved May 14, 1857.*]

AN ACT to incorporate the Boston and New York Steamship Company. *Chap. 158*

Be it enacted, &c., as follows :

SECTION 1. James Read, Charles H. Mills, Andrew T. Hall, their associates and successors, are hereby made a corporation by the name of the Boston and New York Steamship Company, for the purpose of navigating the ocean by steam; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Privileges, restrictions, &c.

SECTION 2. The said Company are hereby authorized to build, purchase, hold and convey, one or more steamships, and may therewith navigate the ocean, between Boston and other ports in the United States, except Philadelphia; and may enter into such contracts with other persons, as they may deem expedient, to run steamships between any other port or ports whatsoever.

May build, buy, hold and convey steamships, &c., and run the same.

May hold estate to amount of \$700,000.

SECTION 3. The said company may hold real estate not exceeding in value, two hundred thousand dollars, and personal property to an amount not exceeding five hundred thousand dollars.

Shares.

SECTION 4. The number of shares into which the capital stock of said company shall be divided, and the amount of each share, shall be fixed by the by-laws; and the said company shall have power to assess, from time to time, upon such shares, such sums of money as may be deemed necessary to accomplish the objects of said company; but no share shall be assessed for a greater sum or sums in the whole, than the amount of such shares so determined and fixed as aforesaid.

Assessments.

To continue thirty years.

SECTION 5. The said corporation shall continue for the term of thirty years; but if the said corporation shall not, within two years from the passing of this act, have been organized and have laid an assessment or assessments to the amount of ten per cent. upon the capital stock, and shall not, within three years from the passage of this act, have built and equipped at least two steamships for the purposes of said company, and shall not use the same for the purposes in this act expressed, then this act shall become null and void.

Shall organize and assess within two years, and build and equip two ships within three years.

No shares issued under par.

SECTION 6. No shares in the capital stock of said corporation shall be issued for a less sum in amount, than the par value of the shares first issued.

SECTION 7. This act shall take effect from and after its passage. [*Approved May 14, 1857.*]

Chap. 159 AN ACT establishing Terms of the Probate Court for the County of Bristol.

Be it enacted, &c., as follows:

Times and places for holding probate court.

SECTION 1. There shall be a probate court held every year in and for the county of Bristol, at the times and places as follows, to wit: At Taunton, on the first Tuesday of January, on the first Tuesday of March, on the first Tuesday of June, and on the first Friday after the first Tuesday of November; at New Bedford, on the first Tuesday of February, on the first Friday after the first Tuesday of May, on the last Tuesday of August, and on the first Tuesday of December; at Pawtucket, on the first Tuesday of April; at Fall River, on the first Friday after the first Tuesday of April, on the first Friday after the first Tuesday of July, and on the first Tuesday of October; at Attleborough, on the first Tuesday of May; at Norton, on the first Tuesday of July; at Seekonk, on the first Tuesday of September; and at Rehoboth, on the first Friday after the first Tuesday of September.

SECTION 2. This act shall take effect on the first day of August next. All suits, processes and proceedings which shall then have been commenced in the probate court for said county, shall have day and be heard and determined in said probate court, at the times and terms above established, as fully and effectually as the same might have been done in said court, if this act had not been passed; and orders of notice, issued prior to said first day of August, may be made returnable to and have day in court at the terms above established.

When to take effect.
Suits, processes and proceedings to have day and be heard, &c.

SECTION 3. So much of the fifty-fifth section of the eighty-third chapter of the Revised Statutes, as relates to the terms of the probate court for the county of Bristol, and all acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed. [*Approved May 14, 1857.*]

Acts and parts of acts repealed.

AN ACT concerning wilful and malicious injuries to Dams and Reservoirs. *Chap. 160*
Be it enacted, &c., as follows :

Every person who shall wilfully or wantonly, without color of right, obstruct the water of any mill-pond, reservoir, canal or trench, from flowing out of the same, shall be punished by imprisonment in the State prison, not more than five years, or by fine not exceeding five hundred dollars, and imprisonment in the county jail, not more than two years. [*Approved May 15, 1857.*]

Wilful obstruction of water, how punishable.

AN ACT authorizing Perry G. Macomber to plant Oysters in Pocasset. *Chap. 161*
Be it enacted, &c., as follows :

SECTION 1. Perry G. Macomber, of New Bedford, in the county of Bristol, his heirs and assigns, are hereby authorized to plant and dig oysters in the waters and flats in Pocasset, in the town of Sandwich, in the county of Barnstable, in front and westerly of said Macomber's land, within the following described limits, to wit: beginning in the middle or channel of Red Brook, so called, in said Pocasset, on the north line of his land; thence southerly in the thread of the stream, to its outlet; thence in a south-westerly direction, three hundred and twenty feet, or thereabouts, to a stake in the channel, and thence in a direction south-east by east, one hundred and fifty-five feet, to the south-west corner of said Macomber's wharf, embracing all the waters between said limits and high-water mark, on his said land.

May plant and dig oysters in Pocasset.

SECTION 2. Said Perry G. Macomber, his heirs and assigns, shall have exclusive use of said waters and flats, within the bounds aforesaid, for the purpose of planting and

To have exclusive use for 20 years.

Digging without license; penalty for.

digging oysters, for the term of twenty years; and if any person shall, within said limits, dig or take any oysters during said term, without license from said Macomber, his heirs or assigns, he shall forfeit and pay a fine not exceeding twenty dollars, to be recovered to the use of said Macomber, his heirs or assigns, in any court proper to try the same.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 15, 1857.*]

Chap. 162 AN ACT concerning the Dorchester and Milton Branch Railroad Company.
Be it enacted, &c., as follows :

Rights of Dorchester and Milton Extension R. R. Co., vested in Dorchester and Milton Branch R. R. Co.

SECTION 1. The rights, powers and privileges acquired by the Dorchester and Milton Extension Railroad Company, by virtue of the provisions of an act establishing said last named company, passed in the year eighteen hundred and fifty-four, are hereby vested in the Dorchester and Milton Branch Railroad Company.

Time of filing location extended.

SECTION 2. The time, within which said Dorchester and Milton Branch Railroad Company is required to file the location of said extension, is extended for one year, and the time within which said company may complete said road, for two years from and after the passage of this act; and subscription of additional capital shall not be required for said purpose.

Time for completion extended.

May give notes or bonds for \$50,000.

SECTION 3. Said Dorchester and Milton Branch Railroad Company are authorized, provided, that three-fourths of the stockholders, in number and value, shall consent thereto, to make, execute, and give notes or bonds to an amount, the principal of which shall not exceed fifty thousand dollars, and the Old Colony and Fall River Railroad Company is hereby authorized to guarantee, indorse, or in some way become responsible for the payment of the principal and interest of said notes or bonds, or of any part thereof. Said notes or bonds may be made and executed in such form and manner, issued in such sums, and be made payable, principal and interest, at such times as said Dorchester and Milton Branch Railroad Company shall determine.

Old Colony and Fall River Railroad Co. may guarantee notes or bonds.

Notes and bonds, how executed.

Company may mortgage road as security.

SECTION 4. Said Dorchester and Milton Branch Railroad Company is authorized to convey their road, franchise and property of every kind, to said Old Colony and Fall River Railroad Company, in mortgage, in order to secure said last named company against all loss, costs, damage and expense, which may arise or happen to it by reason of its guaranteeing, indorsing, or otherwise becoming responsible for the payment of the principal and interest of said notes or bonds, pursuant to this act; and said Dorchester and Milton Branch

Railroad Company is also authorized to make and execute any other mortgage to trustees or otherwise, for the payment or securing of its debts and liabilities; but nothing in this act contained shall be so construed as to prejudice or impair the existing rights of creditors or other persons having interests in said Branch Railroad Company.

Rights of creditors, &c., not to be impaired.

SECTION 5. The stockholders in said company, shall, within such time as may be determined by the vote of said company, at a legal meeting, be entitled to subscribe for such stock as may be created under the provisions of the two hundred and eighty-third chapter of the acts of the year eighteen hundred and fifty-one, entitled, "An Act concerning the Dorchester and Milton Branch Railroad Company," and in proportion to the number of shares held by them; and for each share subscribed and paid for under the provisions of said last mentioned act, each shareholder shall be entitled to receive an additional share in the present stock of said company; and stockholders may transfer their rights to subscribe for stock so created as aforesaid: *provided, however*, that the provisions of this section shall not take effect unless the same shall be accepted and adopted by a vote representing two-thirds, at least, of all the shares in said company.

Stockholders may subscribe for new stock.

Provisc.

SECTION 6. This act may be altered, amended or repealed, at the pleasure of the legislature. [*Approved May 15, 1857.*]

Right to alter, &c., reserved.

AN ACT in addition to an Act relating to Mill and Reservoir Dams.
Be it enacted, &c., as follows:

Chap. 163

The supreme judicial court shall have jurisdiction in equity, and may compel the owner or owners of any dam to make such alterations, additions and repairs, as the county commissioners of any county, acting in accordance with the provisions of chapter three hundred and twenty-seven of the acts of the year one thousand eight hundred and fifty-four, shall order to be done, and may make all judgments and decrees necessary to carry into effect the orders of said commissioners. [*Approved May 15, 1857.*]

Owners of dams may be compelled to make such alterations as county commissioners shall direct.

AN ACT determining the Boundary Line between South Scituate and Hanover.

Chap. 164

Be it enacted, &c., as follows:

SECTION 1. The dividing line between South Scituate and Hanover, determined by the commissioners appointed by his excellency the governor, under the resolves passed on the thirty-first day of May, in the year eighteen hundred

Line between South Scituate and Hanover established.

and fifty-six, entitled, "Resolves in relation to Town Lines between the Towns of South Scituate and Hanover," and reported by the said commissioners to this legislature, is declared to be, and the same shall constitute the dividing line between said towns of South Scituate and Hanover.

SECTION 2. This act shall take effect on and after its passage. [*Approved May 15, 1857.*]

Chap. 165 AN ACT to set off a part of the Town of Groton, and annex the same to the Town of Pepperell.

Be it enacted, &c., as follows :

Description of
territory set off
and annexed.

SECTION 1. All that part of the town of Groton, in the county of Middlesex, with the inhabitants thereon, lying north of the following described line, is hereby set off from the town of Groton, and annexed to the town of Pepperell, to wit : Beginning at the boundary between said town of Groton and the town of Dunstable, at a stone monument in the wall on land of Elbridge Chapman and land of Joseph Sanderson, and running south, eighty-six degrees west, about six hundred and sixty rods, to a stone monument at the corner of land called the "Job Shattuck Farm," and land of James Hobart, near the Nashua River and Worcester and Nashua Railroad ; thence in same line to the centre of Nashua River and the boundary of said town of Pepperell : *provided, however,* that for the purpose of electing a representative to the general court, the said territory shall continue to be a part of the town of Groton, until a new apportionment for representatives is made ; and the inhabitants resident therein shall be entitled to vote in the choice of such representatives, and shall be eligible to the office of representative in the town of Groton, in the same manner as if this act had not been passed.

Proviso.

Taxes.

SECTION 2. The said inhabitants and estates, so set off, shall be liable to pay all taxes, that have been legally assessed on them by the town of Groton, in the same manner as if this act had not been passed ; and until the next general valuation of estates in this Commonwealth, the town of Pepperell shall annually pay over to the said town of Groton, the proportion of any state or county tax which the said town of Groton may have to pay upon the inhabitants or estates hereby set off ; and the town of Groton shall pay over to the treasurer of the town of Pepperell, on or before the first day of January, eighteen hundred fifty-eight, the net proceeds of all taxes assessed for town purposes, for the year eighteen hundred fifty-seven, upon the inhabitants and estates hereby set off from the town of Groton, to the town of Pepperell.

SECTION 3. The town of Pepperell shall be liable for the support of all persons who may, after the passage of this act, stand in need of relief as paupers, whose settlement was gained by, or derived from, a residence within the limits of the territory hereby annexed to said town.

Support of paupers.

SECTION 4. This act shall take effect on and after its passage. [*Approved May 18, 1857.*]

AN ACT to incorporate the North American Depot and Wharf Company. *Chap. 166*

Be it enacted, &c., as follows :

SECTION 1. Samuel S. Lewis, John Howe, Elijah D. Brigham and George W. Gordon, their associates and successors, are hereby made a corporation by the name of the North American Depot and Wharf Company ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and in that part of the thirty-ninth chapter thereof, relating to railroad corporations.

Corporators.

Name.

Privileges, restrictions, &c.

SECTION 2. Said corporation is hereby authorized to purchase of the Grand Junction Railroad and Depot Company, all its estate, real and personal, and all its franchises, or any portion of such property and franchises, at such price and on such terms, as may be agreed upon by the directors of said companies: *provided*, the same are approved by a majority of the stockholders in said companies, in numbers and amount, voting thereon, at meetings of said companies legally called for that purpose. And the company hereby created, may hold, improve, maintain and manage the property and franchises so purchased. And said Grand Junction Railroad and Depot Company are hereby empowered, after the passage of the votes aforesaid, to transfer to the company hereby created, all their property and franchises, and any part thereof ; and all such franchises, property, rights and powers, shall vest in the company hereby created.

May purchase franchises of the Grand Junction R. R. Co.

Proviso.

Grand Junction R. R. Co. empowered to sell.

SECTION 3. The capital stock of the company hereby created, shall not exceed two millions of dollars, and shall be divided into equal shares of one hundred dollars each, and no share shall be issued for a less sum, actually paid in, than the par value of the shares first issued.

Capital stock.

Shares.

No shares to be issued under par.

SECTION 4. The company hereby created shall, upon purchasing the property and franchises of the Grand Junction Railroad and Depot Company, or any part thereof, become responsible for the payment of all claims against the said last named corporation for damage occasioned by laying out, constructing, and maintaining their railroad, or any part

Company to be responsible for all claims for damages against the Grand Junction R. R. Co.

thereof for which they are liable; and shall also become responsible for all sums of money and costs for which any corporation may hereafter obtain any award or judgment against said Grand Junction Railroad and Depot Company, or their successors or assigns, for any part of the expenses incurred, or to be incurred, in constructing a bridge and connection, and other works to obviate a crossing at grade, at and near the intersection of the Boston and Lowell Railroad with the Fitchburg and Grand Junction Railroads, in Somerville. Such claims may be enforced by serving warrants of distress upon any property of the company hereby created, or by action of contract against said company. And no person or corporation having a claim for such damages, expenses, awards, judgments, or either of them, shall, by reason of said purchase, lose any remedy in law or equity which he now has for the enforcement of such claim, or of the adjudications, if any there be, by the proper authorities, touching crossings or culverts; and such remedies shall exist against the company hereby created. And any person having any valid claim against the Grand Junction Railroad and Depot Company, may exchange such claim for stock in the company hereby created, at the rate of one share of stock for each hundred dollars of such claim; and it shall be the duty of the president and treasurer of the company hereby created, to issue certificates of stock on notice and proof of such claims; and in case of their refusal to do so, they may be compelled to issue such certificates by either of the justices of the supreme judicial court, acting on petition of the party aggrieved.

Claims, how enforced.

Rights of claimants not to be impaired.

Claims may be exchanged for stock, and how.

Other railroad companies may establish depots and subscribe for stock, &c.

Proviso.

SECTION 5. Any railroad company incorporated by this State or otherwise, may, with the consent of the company hereby created, establish depots on its premises, and hold the same in fee simple or otherwise; and may subscribe for, take, hold and dispose of any number of shares in the company hereby created: *provided*, that no company shall invest more than five per cent. of its capital in the stock of this company.

SECTION 6. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

Chap. 167 AN ACT to increase the Capital Stock of the Mechanics' Bank, in New Bedford.

Be it enacted, &c., as follows:

Increase of capital authorized.

SECTION 1. The president, directors and company of the Mechanics' Bank, in New Bedford, are hereby authorized to increase their present capital stock, by an addition thereto of two hundred thousand dollars, in shares of one hundred dol-

lars each, which shall be paid in such installments as the president and directors of said bank may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Remonstrance to be in writing.

SECTION 3. The additional capital stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Taxation of capital.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

Certificate to be returned to secretary's office.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

AN ACT concerning Railroad Returns.

Chap. 168

Be it enacted, &c., as follows:

SECTION 1. The annual report now by law required to be made by the directors of the several railroad corporations of this Commonwealth, shall hereafter contain full information upon the several items hereinafter enumerated, viz.: the number of shares of capital stock issued; the maximum amount of debts during the year, instead of the maximum amount of debts for each month during the year, as heretofore; the amount expended during the year for renewals of iron, including laying down; the cost of new iron laid down during the year, deducting the value of old rail taken up; the number of cords of wood used by engines during the year, and the cost of the same; the number of tons of coal used by engines during the year, reckoning two thousand two hundred and forty pounds to the ton, and the cost of the same; total amount of interest paid during the year.

Information required as to shares issued.

Debts.

Cost of renewal of iron.
Iron.

Wood and coal.

Interest.

SECTION 2. The provisions of the one hundred and ninety-first chapter of the acts of the year eighteen hundred and forty-nine, which are inconsistent herewith, are hereby repealed. [*Approved May 18, 1857.*]

Inconsistent provisions repealed

Chap. 169

AN ACT to confirm an Indenture concerning the Back Bay.

Be it enacted, &c., as follows :

Indenture between the Commonwealth, the Boston Water-Power Co., and the city of Boston, confirmed.

The indenture of three parts made and executed on the eleventh day of December, in the year eighteen hundred and fifty-six, by and between the Commonwealth of Massachusetts, acting by its committee appointed under and in pursuance of the "Resolves in relation to Lands in the Back Bay," approved May thirtieth, in the year eighteen hundred and fifty-six, of the first part; the Boston Water-Power Company, of the second part; and the city of Boston, of the third part, is hereby confirmed and established: *provided*, this act shall not prejudice the legal rights of the city of Roxbury, or of the town of West Roxbury. [*Approved May 18, 1857.*]

Proviso.

Chap. 170

AN ACT to incorporate the India Fire and Marine Insurance Company.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. Augustus Perry, Francis Curtis, Jacob C. Rogers, their associates and successors, are hereby made a corporation for the term of twenty years from the passage of this act, by the name of the India Fire and Marine Insurance Company, to be established in the city of Boston, for the purpose of making insurance against losses by fire and maritime losses; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and all other general laws in force relative to insurance companies.

Name.

Purpose.

Privileges, restrictions, &c.

Capital.

Shares.

May hold real estate.

SECTION 2. The said corporation shall have a capital of two hundred thousand dollars, divided into shares of one hundred dollars each, with liberty to pay in and increase the same to an amount not exceeding three hundred thousand dollars, and may hold real estate for its own use, not exceeding in value thirty thousand dollars.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

Chap. 171

AN ACT concerning Returns of Elections.

Be it enacted, &c., as follows :

Votes, how sorted, counted and declared.

SECTION 1. In all elections hereafter to be held in this Commonwealth, for national, state, or county officers, the votes shall be sorted and counted by the selectmen of the towns, and by the wardens and ward clerks of the cities, in open town and ward meetings, and public declaration made thereof at such meetings. The names of all persons voted for, the number of votes received by each person, and the

How recorded.

title of the office for which he is proposed, shall be entered by the town clerks in the town records, and by the ward clerks in the ward records, in words at length; and the said ward clerks shall forthwith deliver to the city clerk certified copies of such records, who shall forthwith enter the same in the city records. The said town and city clerks shall, within ten days from the day of said elections, transmit copies of the records so made, by them attested, and certified by the selectmen of the several towns, and by the mayor and aldermen of the several cities, sealed up, to the secretary of the Commonwealth, or to such other officer as is now required by law to receive the same.

How returned.

SECTION 2. The said town and city clerks may, within three days next after the day of such elections, deliver the said copies, sealed up, to the sheriff of the county in which such elections shall be held; and in that case the sheriff shall, within seven days next after receiving the same, transmit the same to the office of the secretary of the Commonwealth, or to such other officer as is now required by law to receive the same.

Copies may be delivered to the sheriff, &c.

SECTION 3. All acts or parts of acts, inconsistent herewith, are hereby repealed. [*Approved May 18, 1857.*]

Inconsistent acts repealed.

AN ACT to increase the Capital Stock of the Hopkinton Bank.

Chap. 172

Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Hopkinton Bank, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors shall determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Increase of capital authorized.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Remonstrance to be in writing.

SECTION 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Taxation of capital.

SECTION 4. Before the aforesaid corporation shall proceed to do business on said additional capital, a certificate, signed

Certificate to be returned to secretary's office.

by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned to the office of the secretary of this Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

Chap. 173 AN ACT in addition to an Act entitled, "An Act for incorporating a certain part of the Town of Lee into a School District, by the name of the Hopland School District."

Be it enacted, &c., as follows :

Contiguous school districts may associate together and form one district.

SECTION 1. That any Hopland School District within the town of Lee, and any school district of said town contiguous thereto, may associate together, and form one district, for the purpose of maintaining a union school therein, if the inhabitants of each of said districts shall, at legal meetings called for that purpose, agree to form such union by a vote of two-thirds of the legal voters of each district, present and voting therein.

Each union district shall have corporate powers, &c.

SECTION 2. Every union district thus formed, shall be a body corporate, with the corporate powers of other school districts, may sue and be sued, and hold real and personal estate, and shall be called by such name as said district, at its first meeting, shall determine.

District meetings, how called.

SECTION 3. The first meeting of such union district shall be called in such manner, and at such time and place as may be agreed upon by the associated districts respectively, by a vote of the same, at the time of forming the union; and the union district may, from time to time thereafter, prescribe the mode of calling and warning the meetings thereof, in like manner as other school districts may do, and may also determine at what time its annual meetings shall be held.

May raise money, for what purposes, and how.

SECTION 4. Such union district may, at any legal meeting called for that purpose, raise money for erecting, purchasing, renting, and repairing any building to be used as a school-house, for the union school aforesaid, or purchasing or renting land for the use and accommodation thereof; also, for purchasing fuel, furniture, books or maps, and other necessary articles for the use of said school; and in assessing and collecting a tax or taxes for the above purposes, the like proceedings shall be had as are prescribed by law for other school districts. Such district shall have the power of determining the location of its school-house, and if it shall not so determine, the same shall be referred to the selectmen of the town, in the same manner as is provided in the case of

Location of school house, how determined.

other districts. The district may choose any committee to carry into effect the aforesaid provisions.

SECTION 5. Such union district, at the first meeting thereof, shall choose, by ballot, a clerk, who shall be sworn in the same manner, and shall perform the same duties as are prescribed in relation to the clerks of other school districts, and shall hold his office until another shall be chosen and qualified in his stead. Clerk, how chosen, duties, &c.

SECTION 6. The school committee of the town in which such union district shall be formed, shall have the same powers, and perform the same duties, in relation to such union school, as are prescribed to them in the case of other district schools. Power of school-committee.

SECTION 7. The inhabitants residing in any Hopland School District, after such union shall be formed, shall, in their associate capacity, be assessed for their polls and estates, in the same manner, and for the same purposes as are the inhabitants of the school district of the town to which it is united as aforesaid. Assessments.

SECTION 8. Any Hopland School District, notwithstanding such union, may retain its organization as a Hopland District, and may, at its annual meeting, elect, by ballot, a trustee, whose duty it shall be to collect and receive, from the Hopland School District, its share of the income arising from the Hopland Fund, or from any other property belonging to said Hopland School District, and to hold the same in trust for said district, until said district shall dispose of the same by vote, for the use of its inhabitants. Separate organization may be retained.

SECTION 9. Any union district, as aforesaid, shall have power to choose its prudential committee, unless such committee shall be appointed or chosen by the town. Disposition of Hopland fund, &c.

SECTION 10. Whenever the town of Lee shall raise money for the support of the district schools of said town, it shall have the right, and it shall be the duty of said town, to levy a tax, and cause it to be assessed on the polls and estates of the inhabitants, in any Hopland School District which shall have formed a union with a contiguous school district of the town; and such union district shall have its just proportion of the school money of the town. All acts and parts of acts, contrary to the provisions of this act, are hereby repealed. Prudential committee, how chosen.

Tax for support of schools, how levied, assessed, &c.

Conflicting provisions repealed.

[*Approved May 18, 1857.*]

Chap. 174

AN ACT to increase the Capital Stock of the Warren Bank.

Be it enacted, &c., as follows :

Increase of capital authorized.

SECTION 1. The president, directors and company of the Warren Bank, in South Danvers, are hereby authorized to increase their capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Proviso.

Remonstrance to be in writing.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Taxation of capital.

SECTION 3. The additional capital aforesaid, when paid into said bank, shall be subject to the same tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be returned to secretary's office.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

Chap. 175

AN ACT to increase the Capital Stock of the Cape Cod Bank, in Harwich.

Be it enacted, &c., as follows :

Increase of capital authorized.

SECTION 1. The president, directors and company of the Cape Cod Bank, in Harwich, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Proviso.

Remonstrance to be in writing.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital stock herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting legally repre-

sent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

SECTION 3. The additional capital stock aforesaid, when paid into said bank, shall be subject to like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject. Taxation of capital.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth. Certificate to be returned to secretary's office.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

AN ACT to increase the Capital Stock of the Miller's River Bank, in Athol. *Chap. 176*
Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Miller's River Bank, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight. Increase of capital authorized.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act. Proviso.

SECTION 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject. Remonstrance to be in writing.

SECTION 4. Before the aforesaid corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned to the office of the secretary of the Commonwealth. Taxation of capital.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

Chap. 177 AN ACT to increase the Capital Stock of the Dedham Bank, Dedham.
Be it enacted, &c., as follows :

Increase of capital authorized SECTION 1. The president, directors and company of the Dedham Bank, in Dedham, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Proviso.

Remonstrance to be in writing. SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Taxation of capital. SECTION 3. The additional capital aforesaid, when paid into said bank, shall be subject to the same tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be returned to secretary's office. SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

Chap. 178 AN ACT relating to Trustees under Railroad Mortgages.

Be it enacted, &c., as follows :

SECTION 1. Whenever any railroad corporation, having executed a mortgage of its property, rights and privileges, or any part thereof, to trustees, for the benefit of its general creditors, or of any particular class of creditors, has made default, or shall make default in the performance of the condition of the same, so that the trustees therein named, or their successors, are or shall become entitled, by virtue and legal effect of said mortgage, to the actual possession and usufruct of the property, rights and privileges therein conveyed in trust for the purposes specified in said mortgage, it shall be lawful for the said trustees, instead of retaining in their own hands the actual possession of the mortgaged premises, and running the trains under their own direction

Trustees may contract with corporations or other parties to use and operate the premises.

and on their own responsibility, to contract with the said corporation, through its directors, or with any other competent party, to take and retain for said trustees the possession and use of said mortgaged premises, and use and operate the same on its own responsibility, under the direction of its own officers, accounting with said trustees for all the earnings and income thereof, and paying over the net income and profits thereof, periodically, when and as far as the same may, by the terms of the mortgage, be necessary for the fulfillment of the conditions thereof: *provided*, that all liabilities incurred by said corporation or other party, in operating said road under such contract, shall be held as claims against and paid out of the income thereof, in the same manner and to the same extent as if said property had remained in the actual possession of the trustees, and had been operated by them; and *provided, also*, that at a meeting of the bondholders or creditors under said mortgage, duly notified in two or more daily newspapers, published in the city of Boston, and in one newspaper, at least, in each county through which said road is located, ten days before said meeting, a majority, in amount, of those present or represented, shall vote in favor of such contract; each bondholder or creditor under such mortgage, casting one vote, personally or by proxy, for every hundred dollars held by him.

Proviso.

Additional proviso.

SECTION 2. It shall be the duty of trustees in possession of any railroad under a mortgage, to call a meeting of the bondholders or creditors, for the security of whose claims they hold such property in trust, at some convenient place on or near the line of such road, in the month of December in each year, by giving notice of such meeting at least ten days previous thereto, in two or more daily papers published in the city of Boston, and in at least one paper published in each county through which the said road is located; and at such meeting the said trustees shall submit a report of their business and proceedings, according to the usual custom of railroad directors to the stockholders. It shall be the further duty of said trustees, in possession of any railroad on or before the thirty-first day of December, to transmit to the secretary of the Commonwealth, full and complete returns of their acts and doings, receipts and expenditures, agreeably to the several statutes regulating such returns by railroad companies, and subject to all the forfeitures and penalties expressed in said statutes as applicable to railroad companies.

Trustees to call annual meeting of bondholders, &c.

To transmit returns to secretary of Commonwealth.

SECTION 3. If said trustees shall omit to call said meeting, at the time and in the manner in the second section mentioned, then it shall be lawful for any five or more bond-

If trustees omit to call meeting bondholders may do it.

holders or creditors holding claims under said mortgage, not less in the aggregate amount than ten thousand dollars, to call such meeting, to be held in the month of January, following such omission, by giving notice thereof in the manner prescribed in the second section.

Trustees, how elected.

SECTION 4. At such annual meeting, called in the manner prescribed either in the second section or in the third section, the bondholders or creditors under such mortgage may proceed to elect three trustees under said mortgage, for the year ensuing, and until others are chosen and qualified, each bondholder or creditor casting personally or by proxy one vote for each one hundred dollars owing to him and secured by said mortgage: and the proceedings of said meeting may, in a summary manner, be presented by the trustees so elected, or either of them, or by any creditor under said mortgage, to any one of the justices of the supreme judicial court, either in court or at chambers,—the person or persons so presenting said proceedings, giving notice thereof, and of his or their intention to move for their affirmation, to the former trustees under said mortgage, and also to the trustees of any subsequent or prior mortgage on said road, and also to the corporation giving said mortgage, seven days at least before the hearing thereon, such notice to be served by any officer or by any indifferent person; and such justice of said court shall have power to hear the parties summarily, and to ratify and confirm such election and make such order and decree for the purpose of transferring the property to such new trustees, as he may deem necessary and just; and such order and decree shall be filed in such clerk's office of said court as said justice may direct.

Election, how confirmed.

Equity jurisdiction conferred on S. J. Court.

SECTION 5. The supreme judicial court, and each of the justices thereof, shall have full equity jurisdiction, according to the usage and practice of courts of chancery, of all cases arising under this act, and of all questions arising out of railroad mortgages, and shall have power, in a summary manner, to remove any trustee under any railroad mortgage, whether such trustee be in possession of such railroad or not, and to appoint a new trustee in his stead, whether such trustee be elected by the bondholders or creditors, as in this act provided, or not. [*Approved May 18, 1857.*]

Chap. 179 AN ACT to increase the Capital Stock of the Mount Wollaston Bank, in Quincy.

Be it enacted, &c., as follows :

Increase of capital authorized.

SECTION 1. The president, directors and company of the Mount Wollaston Bank, in Quincy, are hereby authorized

to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight. Provi-o.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act. Remonstrance to be in writing.

SECTION 3. The additional capital stock aforesaid, when paid into said bank, shall be subject to the same tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject. Taxation of capital.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth. Certificate to be returned to secretary's office.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

AN ACT to increase the Capital Stock of the Old Colony Bank, in Plymouth. *Chap. 180*

Be it enacted, &c., as follows:

SECTION 1. The president, directors and company of the Old Colony Bank, in Plymouth, are hereby authorized to increase their present capital stock, by an addition thereto of one hundred thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight. Increase of capital authorized.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital stock herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act. Provi-o.

SECTION 3. The additional capital stock aforesaid, when paid into said bank, shall be subject to like tax, regulations, Remonstrance to be in writing.

restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be returned to secretary's office.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

Chap. 181 AN ACT to increase the Capital Stock of the Quincy Stone Bank, in Quincy.

Be it enacted, &c., as follows :

Increase of capital authorized.

SECTION 1. The president, directors and company of the Quincy Stone Bank, in Quincy, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Proviso.

Remonstrance to be made in writing.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Taxation of capital.

SECTION 3. The additional capital aforesaid, when paid into said bank, shall be subject to the same tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be returned to secretary's office.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

AN ACT to increase the Capital Stock of the Oxford Bank, in Oxford. *Chap.* 182
Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Oxford Bank, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Increase of capital authorized.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital, herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Remonstrance to be in writing.

SECTION 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital of said bank is now subject.

Taxation of capital.

SECTION 4. Before the aforesaid corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned to the office of the secretary of the Commonwealth.

Certificate to be returned to secretary's office.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

AN ACT to increase the Capital Stock of Brighton Market Bank, in Brighton. *Chap.* 183

Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Brighton Market Bank, in Brighton, are hereby authorized to increase their present capital stock, by an addition thereto of one hundred thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Increase of capital authorized.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of

Remonstrance to be in writing.

July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Taxation of capital.

SECTION 3. The additional capital aforesaid, when paid into said bank, shall be subject to the same tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be returned to secretary's office

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

Chap. 184 AN ACT to increase the Capital Stock of the Conway Bank, in Conway.
Be it enacted, &c., as follows :

Increase of capital authorized.

SECTION 1. The president, directors and company of the Conway Bank, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Proviso.

Remonstrance to be in writing.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital, herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of May next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Taxation of capital.

SECTION 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be returned to secretary's office.

SECTION 4. Before the aforesaid corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned to the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

AN ACT in addition to "An Act concerning the Election of Civil Officers." *Chap. 185*
Be it enacted, &c., as follows :

The provisions of the one hundred and fifty-seventh chapter of the acts of the year one thousand eight hundred and fifty-six, shall only apply to elections held by the people, and not to elections held by representative bodies of men. [*Approved May 18, 1857.*]

Application of chapter 157 of acts of 1856, defined.

AN ACT to authorize the Commissioners of Dukes County to borrow Money. *Chap. 186*

Be it enacted, &c., as follows :

The county commissioners of Dukes County are hereby authorized and empowered to borrow, on the credit of said county, in addition to the amount of debt they are now authorized to contract, a sum not exceeding six thousand dollars; the same to be expended by said commissioners, or their successors in office, in erecting a building with fire-proof offices therein, for the use of said county. [*Approved May 18, 1857.*]

Authority to borrow on credit of county, &c.

AN ACT to increase the Capital Stock of the Taunton Bank, in Taunton. *Chap. 187*
Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Taunton Bank, in Taunton, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Increase of capital authorized.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital stock herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Remonstrance to be in writing.

SECTION 3. The additional capital stock aforesaid, when paid into said bank, shall be subject to the same tax, regulations, restrictions and provisions, to which the present capital stock is now subject.

Taxation of capital.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank,

Certificate to be returned to the secretary's office.

shall be returned into the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

Chap. 188 AN ACT relating to the Fire Department of the City of Roxbury.

Be it enacted, &c., as follows :

Engineers to have the same authority as fire wards.

SECTION 1. The engineers of the fire department of the city of Roxbury, shall have the same authority in regard to the prevention and extinguishment of fires, and the performance of other offices and duties, as are now conferred upon fire-wards by the statutes of this Commonwealth.

The removal of combustible materials may be required.

SECTION 2. The said engineers shall have authority, in compliance with any ordinance of said city, to make an examination of places where shavings and other combustible materials are deposited, and to require the removal of such materials, or the adoption of suitable safeguards against fire. And the city council of said city are hereby authorized to make suitable ordinances, on the subject referred to in this section, and to annex penalties, not exceeding twenty dollars, for the breach thereof.

Powers before conferred not to be impaired.

SECTION 3. Nothing in this act contained, shall be construed as taking away any right, power, or authority now given by law to the engineers, or other officers of said fire department.

Act subject to acceptance of city council.

SECTION 4. This act shall be void, unless the city council of said city shall, by a concurrent vote, accept the same within sixty days from and after its passage. [*Approved May 18, 1857.*]

Chap. 189 AN ACT relating to Common Schools.

Be it enacted, &c., as follows :

Authority to establish schools for persons over fifteen years of age, &c.

SECTION 1. Any city or town in this Commonwealth, may establish and maintain, in addition to the schools now required by law to be maintained therein, schools for the education of persons over fifteen years of age; and may determine the term or terms of time in each or any year, and the hours of the day or of the evening during which said schools shall be kept; and may also appropriate such sums of money as may be necessary for the support thereof.

Superintendence conferred on school committee.

SECTION 2. Whenever any such school or schools shall be established, the school committee of such city or town shall have the same superintendence over said school or schools, in all respects, that they now have over the schools of said city or town; and shall also determine what branches of learning may be taught therein.

SECTION 3. The one hundred and thirty-seventh chapter of the laws of eighteen hundred and forty-seven, entitled "An Act relating to Common Schools," is hereby repealed.

Chapter 137 of laws of 1847, repealed.

SECTION 4. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

AN ACT to increase the Capital Stock of the Wrentham Bank.

Chap. 190

Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Wrentham Bank, in Wrentham, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Increase of capital authorized.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital stock herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next: and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Remonstrance to be in writing.

SECTION 3. The additional capital aforesaid when paid into said bank, shall be subject to the same tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Taxation of capital.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

Certificate to be returned to secretary's office.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 18, 1857.*]

AN ACT concerning the Appointment of Members of the Legislature to certain offices.

Chap. 191

Be it enacted, &c., as follows :

SECTION 1. No senator or representative shall, during the term for which he is elected, be appointed to any office under the authority of this Commonwealth, which shall have been created during such term.

Ineligible to offices created during their term of service.

SECTION 2. This act shall not apply to any office to be filled by election by the people. [*Approved May 18, 1857.*]

Exception

Chap. 192 AN ACT in addition to an Act entitled, "An Act concerning Notes payable on Demand."

Be it enacted, &c., as follows :

Defence against indorsee, same as against promisee.

SECTION 1. In any action brought upon a promissory note payable on demand, made after this act shall go into operation, by an indorsee against the promisor, any matter shall be deemed a legal defence, and may be given in evidence accordingly, which would be a legal defence to a suit on the same note, if brought by the promisee, and which would have been a legal defence to such suit if brought at the time of the promisee's indorsement of such note.

Repeal.

SECTION 2. The first section of the hundred and twenty-first chapter of the laws of the year eighteen hundred and thirty-nine, is hereby repealed. [*Approved May 19, 1857.*]

Chap. 193

AN ACT to incorporate the Caleb's Pond Company.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. Valentine Pease, Henry Pease, 2nd, and David Davis, their associates and successors, are hereby made a corporation, by the name of the Caleb's Pond Company, in Edgartown, Dukes County, for the purpose of creating a herring and perch fishery; and they are empowered to close the present outlet of said pond, and make a new one through the land of the company. The profits of the fishery so created shall belong to the company; but all persons may take fish with hook and line, or spear eels from said pond. And for this purpose the company shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Infringement of rights, penalty for.

SECTION 2. If any person, without permission of the company, shall take any fish from said pond, except as provided in this act, he shall be subject to a fine not exceeding fifty dollars, to be sued for in any court competent to try the same, and said fine shall belong to the company.

Owners of land adjoining may become members.

SECTION 3. All persons who now are owners of land adjoining said pond or outlet, may become members of said corporation, provided they shall signify to the company their intention to become members within sixty days from the organization of the company; and the company shall give public notice of their organization, by publishing the same at least sixty days in the Vineyard Gazette.

Notice of organization.

Owners of land adjoining entitled to one share.

SECTION 4. The present owners of the land adjoining the said pond or outlet, who shall determine to become members of the corporation, shall each be entitled to one share and no more.

SECTION 5. In making or closing any outlet of said pond, the company shall not infringe upon the rights of any person or corporation. *[Approved May 19, 1857.]*

Existing rights not to be infringed.

AN ACT in relation to Gaming, Billiard Tables and Bowling Alleys.

Chap. 194

Be it enacted, &c., as follows :

SECTION 1. If any person, not licensed as hereinafter provided, shall keep or suffer to be kept, in any house, building, yard or dependency thereof, by him actually occupied, or owned, any table for the purpose of playing at billiards, or any bowling alley for the purpose of playing at bowls, for hire, gain or reward, or shall for hire, gain or reward, suffer any person to resort to the same for the purpose of playing at billiards or bowls, he shall forfeit, for every such offence, a sum not exceeding one hundred dollars, to the use of the city or town where the offence shall have been committed.

Keeping billiard table or bowling alley without license,—penalty for.

SECTION 2. The board of aldermen of the city of Boston, the board of mayor and aldermen of any other city, and the selectmen of any town may, within their respective cities and towns, grant a license to any person to keep a billiard table or bowling alley, for hire, gain or reward, upon such terms and conditions as they may deem proper, to be used for amusement merely, but not for the purpose of gaming for money or otherwise. And such license may be revoked at the pleasure of the authority granting the same.

City and town authorities may grant license.

License may be revoked.

SECTION 3. If any person shall use or take part in using any table or alley aforesaid, for the purpose of gaming for money or otherwise, he shall forfeit, for every such offence, a sum not exceeding fifty dollars, to the use of the city or town where the offence shall have been committed.

Gaming at billiards, &c., penalty for.

SECTION 4. If any person shall make oath before any justice of the peace or any police court, that he suspects, or has probable cause to suspect that any house or other building is unlawfully used as and for a common gaming house, for the purpose of gaming for money or otherwise, and that idle and dissolute persons resort to the same for that purpose, such justice or police court, whether the names of such persons last mentioned are known to the complainant or not, shall issue a warrant commanding the sheriff or his deputy, or any constable or police officer, to enter into such house or building, and there to arrest all persons who shall be there found playing for money or otherwise, or aiding or abetting those playing for money or otherwise, and also the keepers or owners of the same, and to take into their custody all the implements of gaming as aforesaid, and to keep the said persons

Proceedings against gaming houses, how instituted.

Who shall be arrested.

Implements to be seized.

and implements so that they may be forthcoming before such justice or police court, to be dealt with according to law; and any person who shall be there found playing for money or otherwise, or aiding or abetting those playing for money or otherwise, shall forfeit, for every such offence, a sum not exceeding fifty dollars, to the use of the city or town where the offence shall have been committed.

Forfeitures.

SECTION 5. Justices of the peace and police courts shall have jurisdiction of the offences mentioned in this act, saving to the accused the right of appeal. [*Approved May 19, 1857.*]

Chap. 195

AN ACT to incorporate the Proprietors of the Holyoke and Willimansett Bridge.

Be it enacted, &c., as follows:

Corporators.

SECTION 1. Otis Holmes, Jones S. Davis, Reuben A. Chapman, Charles McClellan, their associates, successors and assigns, are hereby made a corporation by the name of the Proprietors of the Holyoke and Willimansett Bridge; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Name.

Privileges, restrictions, &c.

Authorized to erect a bridge.

SECTION 2. The said corporation is hereby authorized and empowered to erect a bridge over Connecticut River, between the town of Holyoke and the village of Willimansett, in the town of Chicopee, below the bridge of the Connecticut River Railroad, and at least one hundred and sixty feet distant from the same, the location to be fixed by the county commissioners of the county of Hampden, and to purchase and hold such real and personal estate as may be proper for that purpose, not exceeding in value the sum of fifty thousand dollars: *provided*, that no shares in the capital stock of said corporation shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued. And said bridge shall be well built of suitable materials, at least eighteen feet wide, exclusive of a sidewalk, and covered with planks, with sufficient rails on each side for the protection of passengers travelling thereon, and shall be kept in good repair at all times: *provided*, that if said bridge shall be injured by fire coming either from the locomotives of the Connecticut River Railroad, or from its bridge, the said corporation shall have no claim upon the Connecticut River Railroad Company for damages.

May hold real and personal estate.

Proviso.

Additional proviso.

Toll established.

SECTION 3. A toll is hereby granted to said proprietors, and is established at the following rates, viz.: For each foot

passenger, two cents; for each horse and rider, five cents; for each gig, sulky, or buggy wagon, twelve cents; for each coach, chariot, or phaeton, drawn by two horses, twenty-five cents, and for each additional horse, four cents; for each cart, wagon, sled, or other carriage of burden, drawn by one beast, ten cents, for each additional beast, four cents; for each horse without a rider, four cents; for neat cattle, asses and mules, each three cents; for sheep and swine, each one cent; and one person and no more to each team, shall pass free from toll; and all persons who shall have occasion to pass the said bridge, to perform military duty, shall pass with their necessary horses and carriages, free from toll.

Persons on military duty, to pass free.

SECTION 4. The said tolls shall commence on the day of the opening of said bridge, and continue for the term of fifty years thereafter; and, at the place of receiving the said tolls, there shall be constantly exposed to view, a sign-board, with said rates of toll fairly and legibly printed thereon.

Tolls, commencement and term of.
Rates to be displayed.

SECTION 5. The said corporation, at the time of the opening of said bridge, or as soon as may be thereafter, shall cause a true account of the expenses of building the same, and also at the end of every three years thereafter, a true account of all receipts and disbursements on account of the same, to be returned into the office of the secretary of the Commonwealth.

Corporation to return account of expenses of building, &c.

SECTION 6. The said corporation may, if it see cause, commute said rates of toll with any person or persons by taking of him or them, a certain less sum, payable at any stated periods, instead of the toll aforesaid, or by taking of all persons less rates of toll than as before specified; public notice of their intention so to do, being first given, by publishing the same three weeks successively, in any newspaper printed in the county of Hampden.

May commute rates of toll, &c.

SECTION 7. The legislature may, at any time hereafter, regulate the tolls on said bridge, as they may deem expedient.

Legislature may regulate tolls.

SECTION 8. If the said corporation shall neglect, for the space of four years from the passing of this act, to build and finish the said bridge, then this act shall be of no effect.

Act void unless bridge is finished in four years.

SECTION 9. Whenever the bridge hereby authorized to be built, shall be opened for public travel, said corporation shall pay to Closson Pendleton, of Chicopee, such reasonable sum, as compensation for the disuse of his ferry property, at Willimansett, as shall be adjudged to be just and equitable, by the county commissioners for the county of Hampden, upon application made to them by either party, and upon a consideration of all the circumstances of the establishment, continuance and condition of said ferry and ferry property,

Remuneration to Closson Pendleton for disuse of ferry, &c.

and also of the benefits resulting to him in his other property, from the establishment of said bridge; such adjudication shall be made, if applied for by said corporation, before the construction of said bridge shall be commenced, and at any time after they shall have determined upon the site; but in such case, any sum that may be awarded, shall not be payable until the ferry shall cease to be used in consequence of the opening of said bridge, nor unless the ferry shall be kept in use until said bridge shall be built. [*Approved May 19, 1857.*]

Chap. 196 AN ACT relating to the Salaries of certain Officers of the State Prison.

Be it enacted, &c., as follows:

Salaries established.

From and after the first day of May, in the year one thousand eight hundred and fifty-seven, the salary of the warden shall be twenty-five hundred dollars; the salary of the deputy-warden, fifteen hundred dollars; the salary of the clerk, twelve hundred dollars; and the salary of the physician, seven hundred dollars per annum, payable quarterly. [*Approved May 20, 1857.*]

Chap. 197 AN ACT relating to the Extinguishment of the Public Debt.

Be it enacted, &c., as follows:

Treasurer authorized to sell such portions of Western Railroad stock as may be necessary.

SECTION 1. For the payment of the state scrip, issued to meet the Commonwealth's subscription to the stock of the Western Railroad Corporation, and maturing in the month of July next, the treasurer is hereby authorized, with the consent of the governor and council, to sell and appropriate such portion of the Western Railroad stock as it may be expedient to sell in preference to raising a corresponding sum of money out of the securities in the Western Railroad stock sinking fund.

Residue of securities in Western R. R. stock, &c., to be set apart as a sinking fund, &c.

SECTION 2. After the said scrip shall have been provided for, the residue of the securities in the Western Railroad stock sinking fund, together with the balance of the Western Railroad stock, belonging to the Commonwealth and not otherwise appropriated, and the claim upon the general government for military services, shall be set apart and considered as a sinking fund for the extinguishment of that part of the state scrip, which has been issued for the enlargement of the State House, and the State Prison at Charlestown, and for the establishment of the State Reform School for Boys, and the Lunatic Hospitals at Taunton and Northampton.

Proceeds of future sales, how to be vested.

SECTION 3. Whenever, after the establishment of this fund, it shall become expedient, in the opinion of the treasurer, to

sell any of the securities of which the fund hereby to be established or any other fund may consist, other than the Western Railroad stock, it shall be his duty to invest the proceeds, with the advice of the governor and consent of the council, in the stocks of the New England States, and in the obligations of the counties, cities and towns thereof, reference being had to the availability of the fund when required for payment of the scrip for which it is set apart.

SECTION 4. The income of the fund hereby established, excepting the dividends on the Western Railroad stock, shall be added to the principal sum, and invested under the restrictions of the preceding section of this act, until the same becomes equal in amount to the several parcels of scrip heretofore issued for the enlargement of the State House, and the State Prison at Charlestown, and for the establishment of the State Reform School for Boys, and for the Lunatic Hospitals at Taunton and Northampton.

Income of fund to be added to principal, &c.

SECTION 5. Section three of chapter two hundred and fifty-one of the acts of the year one thousand eight hundred and fifty-one, is hereby repealed. [*Approved May 20, 1857.*]

Repeal.

AN ACT concerning the Location of Horse Railroads.

Chap. 198

Be it enacted, &c., as follows :

SECTION 1. All horse railroad corporations, hereafter chartered, shall construct their roads within twelve months after their location.

Road to be constructed within twelve months.

SECTION 2. If any horse railroad corporation shall fail to commence to construct their road within six months after they locate, then such location shall be void.

Location void unless commenced within 6 months.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 20, 1857.*]

AN ACT in addition to "An Act to incorporate the Bank of Mutual Redemption."

Chap. 199

Be it enacted, &c., as follows :

SECTION 1. The one hundred and twenty-sixth chapter of the acts passed in the year eighteen hundred and fifty-six, entitled, "An Act in addition to an Act to incorporate the Bank of Mutual Redemption," is hereby amended as follows: Whenever five hundred thousand dollars shall have been subscribed to the capital stock of said bank, in conformity to the provisions of said chapter, and the whole of said sum shall have been paid in in gold or silver coin, the said bank may proceed to do business.

Authority to do business when \$500,000 shall have been subscribed and paid in.

SECTION 2. So much of the said chapter, and of the act

Inconsistent provisions repealed.

to which this in addition, as is inconsistent herewith, is hereby repealed.

SECTION 3. This act shall take effect on and after its passage. [*Approved May 20, 1857.*]

Chap. 200

AN ACT relating to the Trustee Process.

Be it enacted, &c., as follows :

When wages are attached plaintiff to have no costs unless he recovers \$5.

SECTION 1. If the wages of the personal labor and services of any individual shall be attached by the process of foreign attachment, and the plaintiff shall not recover a sum amounting to five dollars as debt, he shall recover no costs of that suit.

A sum not exceeding \$20 exempt from attachment.

SECTION 2. In all cases where the wages of the personal labor and services of an individual shall be attached, on the process of foreign attachment, for any debt or demand other than for necessaries furnished the debtor or his family, there shall be reserved in the hands of the trustee in such case, a sum not exceeding twenty dollars, which shall be exempt from such attachment.

Repeal

SECTION 3. The three hundredth chapter of the acts passed in the year one thousand eight hundred and fifty-five, and all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed: *provided, however*, that this repeal shall in no way affect any cause which shall have been commenced before this act takes effect. [*Approved May 20, 1857.*]

Proviso.

Chap. 201

AN ACT to incorporate the Journal Newspaper Company.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. Charles O. Rogers, James A. Dix, Stephen N. Stockwell, and Samuel L. Tucker, their associates and successors, are hereby made a corporation by the name of the Journal Newspaper Company, for the purpose of printing and publishing newspapers, and executing job printing, in the city of Boston; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes.

Name.

Privileges, restrictions, &c.

May hold real estate.

SECTION 2. Said corporation, for the purposes aforesaid, may hold real estate to the amount of fifty thousand dollars, and the whole amount of the capital stock shall not exceed one hundred and fifty thousand dollars.

Capital not to exceed \$150,000.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 20, 1857.*]

AN ACT to incorporate the Town of Mattapoissett.

Chap. 202

Be it enacted, &c., as follows :

SECTION 1. All that part of the town of Rochester, in the county of Plymouth, lying southerly of a line beginning at a stone post in the division line between the towns of Fairhaven and Rochester aforesaid, standing on the north side of, and about one rod from, the public highway leading from the dwelling-house of William Ellis, in said Rochester, to the dwelling-house of Martin Gammons, in Fairhaven; thence from said stone post east, five degrees south, running south of the barn of John H. Clark, to Mattapoissett River; thence northerly, in the thread of said river, to a stake and stones standing west, two degrees north, from the Cedar Swamp Brook Bridge; thence from said stake and stones east, two degrees south, to the division line between Rochester and Marion.—is hereby incorporated into a separate town by the name of Mattapoissett; and the said town of Mattapoissett is hereby vested with all the powers and privileges, rights and immunities, and shall be subject to all the duties and requisitions, to which other towns are entitled and subjected by the constitution and laws of this Commonwealth.

SECTION 2. The inhabitants of said town of Mattapoissett shall be holden to pay all arrearages of taxes legally assessed upon them before this act takes effect; and also their proportion of such state and county taxes as may be assessed upon them before the taking of the next state valuation.—said proportion to be ascertained and determined by the last decennial valuation of the town of Rochester: *provided*, however, that the town of Rochester shall be authorized to collect the tax assessed by virtue of law, on the first day of May, this current year, upon the inhabitants and owners of property in said town of Mattapoissett; and the said town of Rochester, after deducting the reasonable expenses of collecting the same, shall account with, and pay over the same to, the town treasurer of said Mattapoissett; and the said town of Rochester may employ, for the collection of the tax assessed on the first of May of this current year, and for the collection of all arrears of taxes heretofore legally assessed by the said town of Rochester, both in Rochester and Mattapoissett, the collector chosen at the last annual meeting, who shall have all the powers, and perform all the duties, incident to the office of town collector, in both towns, any thing in his place of residence to the contrary notwithstanding.

Boundaries.

Name.

Privileges, restrictions, &c.

Arrearages of taxes.

State and county taxes.

Proviso

Support of paupers.

SECTION 3. The said towns of Rochester and Mattapoisett shall be respectively liable for the support of all persons who are now receiving relief from Rochester as paupers, according to the last decennial valuation of property within their respective limits. And the said towns of Rochester and Mattapoisett shall be respectively liable for the support of all persons who may hereafter stand in need of relief as paupers, whose settlement was gained by, or derived from, a settlement gained or derived within their respective limits.

Town-house and Sprague legacy.

SECTION 4. The town-house and Sprague legacy shall be the exclusive property of Rochester. And Mattapoisett shall pay to Rochester their proportion of twelve hundred dollars for the interest they have in the fire department; and Rochester shall relinquish all right and claim in said fire department, to Mattapoisett.

Fire department.

Alewife fisheries and town mills.

SECTION 5. The alewife fisheries of Mattapoisett River, and the town mills situate on said river, shall remain the property and privilege of all the inhabitants of the towns of Rochester, Marion and Mattapoisett; and said alewives shall be sold, as now, to each and every family residing in either of said towns, at such price per one hundred as the majority of the legal voters of the said towns of Rochester, Marion and Mattapoisett may, from time to time, determine; and in case said towns shall fail to fix a price as aforesaid, then it shall be the duty of the three inspectors, hereinafter provided for, to sell said alewives at such rates as they, or a majority of them, shall determine. The net yearly profits of said alewife fisheries, and the net yearly earnings of said town mills, shall be appropriated, as now, as a sinking fund to pay the debts incurred on account of the said mills and fisheries, until said debts shall be thus or otherwise liquidated. After the payment of the debts aforesaid, the mills may be sold whenever the said towns of Rochester, Marion and Mattapoisett shall so determine by concurrent vote; and the net yearly rent of said mills, (until sold,) and the net proceeds of such sales, and also the net yearly profits from sales of said alewives, shall be apportioned and paid into the treasury of the said towns of Rochester, Marion and Mattapoisett, according to the valuation of each of said towns as ascertained and determined by their next preceding town valuations, respectively. The manner of taking said alewives, and the whole management of said fisheries, as also the letting and management of said town mills, (until disposed of,) shall be with three inspectors, to be chosen annually, as follows: One from each of the three towns of Rochester, Marion and Mattapoisett.

Alewives, how sold.

Profits and earnings, how disposed of.

Mills may be sold, whenever, &c.

Rents, proceeds, and profits, how appropriated.

Inspectors to have management of fisheries and mills.

SECTION 6. The towns of Rochester and Mattapoissett shall be holden to pay their just and equitable proportions of all debts and liabilities for which the town of Rochester may be liable when this act takes effect; and said town of Mattapoissett shall be entitled to receive its just and equitable proportion of the value of all property, both real and personal, and of all annuities, funds in trust, or assets, now owned or held by the said town of Rochester, the disposition of which is not provided for in sections four and five.

Town debts.

Town property.

SECTION 7. All the privileges which the citizens of Rochester and Mattapoissett had before this act takes effect, to take shell and scale fish from the shores or flats and waters within the towns of Rochester and Mattapoissett, shall remain the same as if this act had not passed.

Right to take fish unimpaired.

SECTION 8. The town of Mattapoissett shall pay their just and equitable proportion of the surplus revenue, whenever called for by the government of the United States.

Surplus revenue.

SECTION 9. Said town of Mattapoissett shall remain a part of the town of Rochester for the purpose of electing State officers, senators and representatives to general court, representatives to congress, and electors of president and vice-president of the United States, until the next decennial census shall be taken, or until another apportionment of representatives to general court shall be made. The meetings for the choice of said officers shall be called by the selectmen of Rochester; and the selectmen of Mattapoissett shall make a true list of persons belonging to said town of Mattapoissett, qualified to vote at every such election, and shall post up the same in the said town of Mattapoissett, and shall correct the same as required by law, and shall deliver the same to the selectmen of Rochester before any such election; and the same shall be taken and used by the selectmen of Rochester for such election, in the same manner as if it had been prepared by themselves.

Mattapoissett and Rochester to vote together for State officers, &c.

Meetings, by whom called.

Voting list.

SECTION 10. Any justice of the peace, for the county of Plymouth, may issue his warrant directed to any principal inhabitant of said town of Mattapoissett, requiring him to notify the inhabitants thereof, qualified to vote in town affairs, to meet at the time and place therein appointed, for the purpose of choosing all such town officers as towns are by law authorized and required to choose at their annual meetings; and said warrant shall be served by posting up copies thereof, attested by the person to whom the same is directed, in four public places in said town, fourteen days, at least, before the time of meeting. The selectmen of Rochester shall, before said meeting, prepare a list of voters in said

First meeting, how called.

Voting list for new town.

town of Mattapoisett, qualified to vote at said meeting, and shall deliver the same to the person presiding at said meeting, before the choice of moderator thereof.

SECTION 11. This act shall take effect from and after its passage. [*Approved May 20, 1857.*]

Chap. 203

AN ACT to increase the Capital Stock of the Housatonic Bank.

Be it enacted, &c., as follows :

Increase of capital authorized.

SECTION 1. The president, directors and company of the Housatonic Bank, in Stockbridge, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine : *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Proviso.

Remonstrance to be in writing.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next ; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Taxation of capital.

SECTION 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be returned to secretary's office.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 21, 1857.*]

Chap. 204

AN ACT to incorporate the Lenox Water Company.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. Henry W. Bishop, Oliver P. Tamer, Edwards Pierrepont, their associates and successors, are hereby made a corporation by the name of the Lenox Water Company, for the purpose of supplying the inhabitants of Lenox, in the county of Berkshire, with pure water ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes.

Name.

Purposes.

Privileges, restrictions, &c.

SECTION 2. Said corporation may, for the purposes aforesaid, hold real and personal estate not exceeding in amount forty thousand dollars; and the whole capital stock shall not exceed fifty thousand dollars, to be divided into shares of one hundred dollars each.

May hold real and personal estate.

Capital not to exceed \$50,000.

SECTION 3. Said corporation may purchase, hold and convey to, into and through the village in Lenox, the water of any spring or springs, or of any natural pond or ponds, within said town of Lenox; and may take and hold real estate necessary for laying and maintaining aqueducts and reservoirs, and may purchase and hold land around the margin of any such spring or pond to an extent not exceeding one acre, to each spring or pond so taken. Said company shall, within sixty days from the time of taking any lands, ponds or springs, as before provided, file in the office of the registry of deeds, in the middle district of the county of Berkshire, a description of the lands, springs or ponds so taken, as certain as is required in a common conveyance of land and a statement of the purpose for which taken, signed by the president of said company.

May purchase the water of any spring or pond.

May take real estate.

May hold marginal lands.

Description of lands, ponds or springs taken, to be filed, when and where.

SECTION 4. The said company may make aqueducts from any sources above mentioned, through any part of the town of Lenox, and may maintain the same by suitable works; may make reservoirs and hydrants, and may distribute the water throughout said town and village by laying down pipes, and may establish the rents therefor. And the said company, for the purposes aforesaid, may enter upon and dig up any road, under the direction of the selectmen of the town of Lenox, in such manner as to cause the least hindrance to the travel thereon.

May make and maintain aqueducts, reservoirs, and hydrants.

May lay down pipes and establish rents.

May dig up road under direction of selectmen.

SECTION 5. All damages sustained by taking land, water or water rights, or by making aqueducts, reservoirs or other works, shall be ascertained, determined and recovered, in the manner now provided by law, in case of land taken for highways.

Damages, how determined, &c.

SECTION 6. Any person who shall maliciously divert the water, or any part thereof of the sources which shall be taken by the said company, pursuant to the provisions of this act, or who shall corrupt the same, or render it impure, or who shall maliciously destroy or injure any dam, reservoir, aqueduct, pipe or hydrant, or other property held, owned or used by the said company, for the purposes of this act, shall pay three times the amount of actual damage to the said company, to be recovered by any proper action; and every such person, on conviction of either of the malicious acts aforesaid, may be punished by fine not exceeding

Penalty for diverting and corrupting the water.

one hundred dollars, and imprisonment not exceeding six months.

SECTION 7. This act shall take effect from and after its passage. [*Approved May 21, 1857.*]

Chap. 205 AN ACT to repeal a part of "An Act in addition to an Act to incorporate certain persons for the purpose of building a Bridge over Merrimack River, in the County of Middlesex, between the Towns of Dracut and Chelmsford."

Be it enacted, &c., as follows :

Repeal.

SECTION 1. So much of "An Act in addition to an Act to incorporate certain persons for the purpose of building a bridge over Merrimack River, in the county of Middlesex, between the towns of Dracut and Chelmsford," passed in the year one thousand eight hundred and forty-three, as recites, alleges or declares, that the sum of ten thousand dollars of the original cost of the bridge therein named, had not then been reimbursed and repaid to the proprietors thereof, is hereby repealed.

SECTION 2. This act shall take effect from and after its passage. [*Approved May 22, 1857.*]

Chap. 206 AN ACT concerning the branches to be taught in the Public Schools, and for other purposes.

Be it enacted, &c., as follows :

Competency of teachers defined.

SECTION 1. The first section of the twenty-third chapter of the Revised Statutes, and the first section of the fifty-sixth chapter of the laws of eighteen hundred and thirty-nine, are hereby so amended as that the teacher or teachers of the schools required to be kept by each of said sections, shall be competent to give instruction in orthography, reading, writing, English grammar, geography, arithmetic, algebra, the history of the United States, and in good behavior, instead of the branches enumerated in said sections ; and also in physiology and hygiene, whenever the school-committee shall deem it expedient.

Competency of teachers further defined.

SECTION 2. The first clause of the fifth section of the twenty-third chapter of the Revised Statutes is hereby so amended, as that the teacher or teachers of the schools, required to be kept by said clause, shall be competent to give instruction, in addition to the branches named in the first section of this act, in general history, bookkeeping, surveying, geometry, natural philosophy, chemistry, botany, the civil polity of this Commonwealth and of the United States, and in the Latin language, instead of the branches of learning enumerated in the said first clause : and the teacher or teachers of the schools required to be kept by the last clause

of the said fifth section, shall be competent to give instruction, in addition to all the branches before mentioned in this act, in the Greek and French languages, astronomy, geology, rhetoric, logic, intellectual and moral science, and political economy, instead of the branches of learning enumerated in said last clause.

SECTION 3. The two hundred and seventy-fourth chapter Acts repealed. of the laws of eighteen hundred and fifty, entitled, "An Act concerning Schools," and the four hundred and thirty-sixth chapter of the laws of eighteen hundred and fifty-five, entitled, "An Act concerning School Books," are hereby repealed. [*Approved May 22, 1857.*]

AN ACT to increase the Capital Stock of the Mount Hope Iron Company. *Chap. 207*
Be it enacted, &c., as follows :

The Mount Hope Iron Company are hereby authorized to increase their capital stock, by adding thereto one hundred thousand dollars, and may invest such additional capital in real or personal estate, as may be necessary and convenient for carrying on the business for which such company was incorporated: *provided, however,* that no shares in the capital stock of said corporation shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares first issued. Increase of capital authorized. [*Approved May 23, 1857.*]

No shares to be issued under par.

AN ACT to increase the Capital Stock of the Agawam Bank. *Chap. 208*
Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Agawam Bank, in Springfield, are hereby authorized to increase their present capital stock, by an addition thereto of one hundred thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided,* that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight. Increase of capital authorized.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act. Proviso.

Remonstrance to be in writing.

SECTION 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject. Taxation of capital.

Certificate to be returned to secretary's office.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 23, 1857.*]

Chap. 209 AN ACT relating to Persons committed to the State Lunatic Hospitals, not having a known settlement in this Commonwealth.

Be it enacted, &c., as follows :

Persons committed not having a known settlement, to be supported by the Commonwealth.

SECTION 1. All persons committed to either of the State lunatic hospitals, not having a known settlement in this Commonwealth, shall be supported therein at the expense of the Commonwealth; and the several treasurers of said hospitals are authorized to charge for the support of said persons, the same rates that they charge for other lunatics residing therein: *provided, however,* that such persons shall themselves be liable for all expense incurred by them at said hospitals; and if it shall be ascertained that any of said persons have a legal settlement in any city or town in this Commonwealth, or any kindred obligated by law to maintain them, the treasurer of such hospital may, in an action of contract, recover the expense of their support of the person so committed, or of such kindred, city or town; and the district-attorneys, or other prosecuting officers of the Commonwealth, shall institute any suits in their respective districts, whenever they shall be thereto requested by the trustees.

Proviso.

Inconsistent provisions repealed.

SECTION 2. All provisions of law, inconsistent with the provisions herein made, are hereby repealed.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 23, 1857.*]

Chap. 210 AN ACT to increase the Capital Stock of the Hampshire Manufacturers' Bank.

Be it enacted, &c., as follows :

Increase of capital authorized.

SECTION 1. The president, directors and company of the Hampshire Manufacturers' Bank, in Ware, are hereby authorized to increase their present capital stock, by an addition thereto of one hundred thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided,* that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next: and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Remonstrance to be in writing.

SECTION 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Taxation of capital.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

Certificate to be returned to secretary's office.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 23, 1857.*]

AN ACT concerning the Dorchester Avenue Railroad Company.

Chap. 211

Be it enacted, &c., as follows:

SECTION 1. The mayor and aldermen of the city of Boston are hereby authorized to extend the location of the tracks of the Dorchester Avenue Railroad, upon and over such streets within said city, as may be determined, by them, with the assent, in writing, of said company; and the Dorchester Avenue Railroad Company are hereby authorized to construct, maintain, and use such tracks as may be located as above, with the same powers and privileges, and subject to the same duties, liabilities and restrictions, in relation thereto as if they had been authorized to be located by the act by which said company was incorporated: and the said company shall have the right to use, and run over with their cars and horses, all tracks which may hereafter be laid by the Broadway Railroad Company, under its charter, in any of the streets of the city of Boston, excepting in that part of Broadway and of Fourth Street lying easterly of A Street, paying to the said Broadway Railroad Company a reasonable amount for the use thereof; such amount, in case of dispute, to be ascertained and determined from time to time, by commissioners appointed for that purpose by the supreme judicial court.

Track may be extended, how, and on what condition.

Tracks of the Broadway R. R. Co. may be used.

Exception.

Compensation.

SECTION 2. The Dorchester Avenue Railroad Company may, for the purposes of conveying passengers to and from the town of Dorchester, and that part of Boston called Washing-

May connect with other roads.

ton Village, connect with the road of any other company besides the Broadway Railroad Company, with which the board of aldermen of the city of Boston may authorize it to connect.

Terms to be fixed by commissioners in case of disagreement.

And in case any such connection shall be made, and the Dorchester Avenue Railroad Company shall be unable to agree with the company owning the road connected with, as to the mode of connection and the manner, time and extent, of use of the last named road by the Dorchester Avenue Railroad Company, and the compensation to be paid by the Dorchester Avenue Railroad Company for such use, then the supreme judicial court, upon the petition of either party, and upon notice to the other party, shall appoint three commissioners, who shall, upon due notice to the parties interested, proceed and determine all matters relating to such connection and use ; and the compensation to be paid therefor, not agreed upon by said corporations ; and in regulating such connection and use, the commissioners shall have reference to the interests of said corporations, and of the public accommodated by said roads. And the award of said commissioners, or a major part of them, shall be binding upon the respective corporations interested therein, until the same shall have been revised or altered by commissioners to be appointed by the said court, upon application and in manner aforesaid ; but no such revision or alteration shall be made by any commissioners, so to be appointed as aforesaid, within one year after such decision and award shall have been made, unless said court shall be of opinion that such a revision may be sooner required or advisable.

Award to be binding till revised by other commissioners appointed for the purpose.

Commissioners, how paid.

SECTION 3. The compensation of said commissioners, for their services and expenses, shall be paid by the respective corporations interested therein, in equal proportions.

Company may buy or sell.

SECTION 4. The Dorchester Avenue Railroad Company shall have the right, at all times, by vote of its stockholders, three-fourths thereof in number and value consenting thereto, to purchase of or sell to any other company chartered for a similar purpose, all or any part of the tracks which are or may hereafter be laid by it, or by such other company under the provisions of their charters ; and such purchase or sale shall transfer all the corporate rights, and rights of location which may pertain to the tracks so purchased or sold ; and in case of such sale by the Dorchester Avenue Railroad Company, the trustees of the mortgage bonds, if any are issued, shall have the right to release the tracks or parts of tracks sold on receiving what they shall consider a fair equivalent therefor ; and the proceeds of such sale shall be applied to the sinking fund for the redemption of the bonds, if any are issued.

Release of mortgage bonds in case of sale.

Proceeds, how applied.

SECTION 5. This act shall be void unless the same shall be accepted by the city council of Boston, within one year from the passage hereof. Act void, unless accepted by city council, &c.

SECTION 6. This act shall take effect from and after its passage. [*Approved May 23, 1857.*]

AN ACT to increase the Capital Stock of the Lee Bank, in Lee.

Chap. 212

Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Lee Bank, in Lee, are hereby authorized to increase their present capital stock, by an addition thereto of one hundred thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight. Increase of capital authorized.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act. Proviso.

SECTION 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject. Remonstrance to be in writing.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth. Taxation of capital.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 23, 1857.*]

AN ACT in relation to Crossings.

Chap. 213

Be it enacted, &c., as follows :

SECTION 1. Whenever any turnpike, bridge, railroad or other way, has been, or shall hereafter be, laid out by authority of law through the land of any person, without his consent, so as to separate one portion thereof from the other, or from a highway or other public way, and such person shall have the right to cross such turnpike, bridge, railroad or other way, and any difference shall arise between the pro- When the lands of any person are divided by a turnpike, bridge or railroad, county commissioners may establish crossings, &c.

prietors or corporation owning such turnpike, bridge, railroad or way, and such land owner, in regard to the place or manner in which such owner shall cross the same, either party may apply to the commissioners of the county in which the land lies, to direct the place or manner in which such owner shall cross such turnpike, bridge, railroad or way; and said commissioners, after due notice to the party not making the application, and hearing the parties, may make such order in relation to such crossing, and the costs of such application, as they shall deem proper.

When crossings are unsatisfactory, parties may apply to county commissioners, &c.

SECTION 2. Whenever any crossing shall be deemed by the owner of the land or by such proprietors or corporation, inconvenient as to place or construction, and the parties cannot agree in relation thereto, either party may apply to the said commissioners to alter said crossings; and said commissioners, after due notice to the party not making the application, and hearing the parties, may make such order in regard to the same, and the costs of such application, as they shall deem proper.

No new liability to be imposed except upon the party applicant.

SECTION 3. Nothing herein contained shall be construed to authorize the said commissioners to order such proprietors or corporation as aforesaid, to construct or maintain any crossing as aforesaid, without their consent, except where such proprietors or corporation shall be liable by law or by agreement, to construct a crossing for the owner of the land, or where such proprietor or corporation shall make such application.

Costs and expenses.

SECTION 4. No application as aforesaid shall be proceeded upon by the commissioners, until the party applying shall cause a sufficient recognizance to be given to the county, with sureties to the satisfaction of the commissioners, for the payment of all costs and expenses, according to the order of the commissioners. [*Approved May 23, 1857.*]

Chap. 214 AN ACT in addition to the several Acts giving Jurisdiction in Equity to the Supreme Judicial Court.

Be it enacted, &c., as follows :

Equity jurisdiction conferred.

The supreme judicial court shall have full equity jurisdiction, according to the usage and practice of courts of chancery, in all cases where there is not a full, adequate and complete remedy at law. [*Approved May 23, 1857.*]

AN ACT concerning the donation of Henry B. Rogers to the State Industrial School for Girls, at Lancaster. *Chap. 215*

Be it enacted, &c., as follows :

SECTION 1. The treasurer of the Commonwealth is hereby fully authorized and empowered to accept the donation of one thousand dollars, made by Henry B. Rogers, for the use of the State Industrial School, at Lancaster, under the conditions named by the donor, to wit: "That the same shall always be safely invested, and the interest and profits thereof, from time to time, be applied to the purchase of books,—and especially of books of a moral and religious character, for the use of the State Industrial School, at Lancaster; and should this school, at any time hereafter, cease to exist, the said interest and profits may then be applied to the same purpose, for the use of any other institution the legislature may select."

Treasurer authorized to accept donation.

SECTION 2. The purchase of books, under the first section of this act, shall be made by the superintendent of said industrial school, for the time being, under the direction of the trustees; and for any sum or sums which he may expend, according to the conditions as before mentioned, the governor is hereby authorized to draw his warrant. [*Approved May 23, 1857.*]

Superintendent to purchase books.

AN ACT concerning the Broadway Railroad Company.

Chap. 216

Be it enacted, &c., as follows :

SECTION 1. The mayor and aldermen of the city of Boston are hereby authorized to extend the location of the tracks of the Broadway Railroad Company, upon and over such streets within said city, as may be determined by them, with the assent, in writing, of said company; and the Broadway Railroad Company are hereby authorized to construct, maintain and use such tracks as may be located as above, with the same powers and privileges, and subject to the same duties, liabilities and restrictions, in relation thereto, as if they had been authorized to be located by the act by which said company was incorporated: and the said company shall have the right to use and run over, with their cars and horses, the tracks now laid or which may hereafter be laid by the Dorchester Avenue Railroad Company, within the city of Boston, excepting that part of the track of the Dorchester Avenue Railroad Company now laid south of Fourth Street, paying to the Dorchester Avenue Railroad Company a reasonable amount for the use thereof; such amount, in case of dispute, to be ascertained and determined, from time to time, by commissioners appointed by the supreme judicial court.

Track may be extended, how and on what conditions.

Tracks of Dorchester Avenue R. R. Co. may be used.

Exception. Compensation.

May connect with other roads.

Terms to be fixed by commissioners in case of disagreement.

Award binding till revised by other commissioners appointed for the purpose.

Commissioners, how paid.

Company may buy or sell.

Act void unless accepted by city council, &c.

SECTION 2. And for the purposes of conveying passengers to and from South Boston, the Broadway Railroad Company may connect with the road of any other company besides the Dorchester Avenue Railroad Company, with which the board of aldermen of the city of Boston may authorize it to connect. And in case any such connection shall be made, and the Broadway Railroad Company shall be unable to agree with the company owning the road connected with, as to the mode of connection, and the manner, time and extent of use of the last named road by the Broadway Railroad Company, and the compensation to be paid by the Broadway Railroad Company for such use, then the supreme judicial court, upon the petition of either party, and upon notice to the other party, shall appoint three commissioners, who shall, upon due notice to the parties interested, proceed and determine all matters relating to such connection and use, and the compensation to be paid therefor, not agreed upon by said corporations; and in regulating such connection and use, the commissioners shall have reference to the interests of said corporations and of the public accommodated by said roads: and the award of said commissioners, or a major part of them, shall be binding upon the respective corporations interested therein, until the same shall have been revised or altered by commissioners, to be appointed by the said court upon application, and in manner aforesaid; but no such revision or alteration shall be made by any commissioners to be appointed as aforesaid, within one year after such decision and award shall have been made, unless said court shall be of opinion that such a revision may be sooner required or advisable.

SECTION 3. The compensation of said commissioners for their services and expenses shall be paid by the respective corporations interested therein, in equal proportions.

SECTION 4. The said Broadway Railroad Company shall have the right, with the consent of three-quarters of the stockholders, in number and value, at all times, to purchase of, or to sell to, any other company chartered for a similar purpose, all or any part of the tracks which may be hereafter laid by it or any other such company, under the provisions of their charters; and such purchase or sale shall transfer all the corporate rights and rights of location which may pertain to the tracks so purchased or sold.

SECTION 5. This act shall be void unless the same shall be accepted by the city council of Boston, within one year from the passage thereof.

SECTION 6. This act shall take effect from and after its passage. [*Approved May 23, 1857.*]

AN ACT to increase the Capital Stock of the Lynn Mechanics' Bank. *Chap. 217*

Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the Lynn Mechanics' Bank, in Lynn, are hereby authorized to increase their present capital stock, by an addition thereto of fifty thousand dollars, and to divide the same in shares of twenty dollars each, which sum shall be added to the several existing shares of said bank, and which shall be paid in at such times as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Increase of capital authorized.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Remonstrance to be in writing.

SECTION 3. The additional capital aforesaid, when paid into said bank, shall be subject to the same tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Taxation of capital.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

Certificate to be returned to secretary's office.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 23, 1857.*]

AN ACT in addition to an Act to incorporate the New England Railroad Mutual Fire Insurance Company. *Chap. 218*

Be it enacted, &c., as follows :

SECTION 1. The New England Railroad Mutual Fire Insurance Company are hereby authorized to insure property for any railroad corporation located within the United States or the British North American Provinces.

May insure railroad property.

SECTION 2. Whenever there shall remain from the income of the business of said company, any surplus, after providing for all losses and other liabilities of the company, it shall be lawful for them to set aside, from time to time, as a reserve fund, the whole or any portion of said surplus: *provided*, the sums so set aside shall not amount to more than one

Surplus may be set aside as reserve fund.

Proviso.

hundred thousand dollars ; and *provided, also*, that said fund shall be used and appropriated for the payment of any losses or liabilities of the company, before any assessments shall be made on the premium notes.

Privileges, restrictions, &c.

SECTION 3. The said company shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and all other laws relative to mutual fire insurance companies.

Section and part of section repealed.

SECTION 4. The second section and so much of the first section as follows the words "damage by fire," in the act to incorporate the New England Railroad Mutual Fire Insurance Company, approved March twenty-first, in the year eighteen hundred and fifty-six, are hereby repealed.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 23, 1857.*]

Chap. 219

AN ACT to increase the Capital Stock of the Pittsfield Bank.

Be it enacted, &c., as follows :

Increase of capital authorized.

SECTION 1. The president, directors and company of the Pittsfield Bank, in Pittsfield, are hereby authorized to increase their present capital stock, by an addition thereto of two hundred thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Proviso.

Remonstrance to be in writing.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, their remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Taxation of capital.

SECTION 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Certificate to be returned to secretary's office.

SECTION 4. Before said corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned into the office of the secretary of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 23, 1857.*]

AN ACT to extend the time of the payment of the State Loan to the Eastern Railroad Company. Chap. 220

Be it enacted, &c., as follows :

SECTION 1. The treasurer of this Commonwealth is hereby authorized and directed to issue scrip in certificates of debt, in the name and on behalf of the Commonwealth, and under its seal, for the sum of five hundred thousand dollars, with coupons attached for interest, at the rate of five per centum per annum, payable semi-annually at the office of said treasurer, and redeemable at the same place, as follows, to wit: Seventy-five thousand dollars of said scrip redeemable on the first day of July, which shall be in the year of our Lord one thousand eight hundred and sixty-five, and seventy-five thousand dollars of said scrip redeemable on each succeeding first day of July thereafter, until and including the first day of July, eighteen hundred and seventy, and fifty thousand dollars, being the balance of said sum of five hundred thousand dollars, on the first day of July eighteen hundred and seventy-one, which scrip or certificate shall be deemed to be a pledge of the faith and credit of the Commonwealth for the redemption thereof; and the scrip or certificate thus created shall be sold, provided the same can be sold at par, by the treasurer, in such sums as he shall require or find necessary for the purpose of raising funds to pay and redeem the scrip, issued to pay the same amount to the Eastern Railroad Company, under and by virtue of the act of April eighteenth, eighteen hundred and thirty-seven, and the acts in addition thereto, of April twenty-fifth, eighteen hundred and thirty-eight, and of April first, eighteen hundred and thirty-nine, entitled, an act to aid the construction of the Eastern Railroad, which scrip was made payable at the end of twenty years from the date thereof.

Treasurer authorized to issue scrip with coupons, &c.

When redeemable.

Scrip to be sold, how and for what purpose.

SECTION 2. It shall be the duty of the treasurer of the Commonwealth to pay and redeem the scrip issued as aforesaid to the Eastern Railroad Company, whenever presented and demanded after the same becomes due, out of the avails of the sale of the scrip to be issued under the provisions of this act, and to hold the scrip so redeemed, and the bond and mortgage made and given, and the stock transferred to the Commonwealth, as security for the same, in pursuance of the said act of April eighteenth, eighteen hundred and thirty-seven, and the act in addition thereto, of April twenty-fifth, eighteen hundred and thirty-eight, and of April first, eighteen hundred and thirty-nine, to be enforced against said company as herein provided.

Outstanding scrip to be redeemed and held, with bonds, &c., as security.

SECTION 3. The Eastern Railroad Company shall, semi-Interest to be

paid semi-annually by Eastern R. R. Co.

annually, on or before the first days of June and December, pay to the treasurer of the Commonwealth the sum of twelve thousand and five hundred dollars, as interest on the amount paid by the Commonwealth to redeem the said scrip, until the first day of July, eighteen hundred and sixty-five, and shall thereafter pay on the first days of June and December to the said treasurer, such sum as shall be equal to the interest to become due on the succeeding first days of July and January, or so much of said scrip as shall remain unredeemed from time to time; and shall also pay all costs and expenses for making and issuing such certificates or scrip, as herein provided.

Payments to be made annually for redemption of scrip, by Eastern R. R. Co., on and after July 1, 1865.

SECTION 4. The Eastern Railroad Company shall also pay to the treasurer of the Commonwealth, on the first day of July, eighteen hundred and sixty-five, the sum of seventy-five thousand dollars, and the sum of seventy-five thousand dollars on each succeeding first day of July, until and including the first day of July, eighteen hundred and seventy, and fifty thousand dollars, being the balance of the sum of five hundred thousand dollars, on the first day of July, eighteen hundred and seventy-one, which said payment shall be applied to the payment and liquidation of said sum of five hundred thousand dollars due to the Commonwealth for the redemption of said scrip, issued under said act of April eighteenth, eighteen hundred and thirty-seven, and the acts in addition thereto, of April twenty-fifth, eighteen hundred and thirty-eight, and of April first, eighteen hundred and thirty-nine. And on the payments of and complete liquidation of the debt, the treasurer of the Commonwealth shall surrender to said company, the bond of said company, and the mortgage given to secure the same, and the three thousand shares of stock of said company, made and given to the Commonwealth in pursuance of the provisions of said act of April eighteenth, eighteen hundred and thirty-seven, and the acts in addition thereto, of April twenty-fifth, eighteen hundred and thirty-eight, and of April first, eighteen hundred and thirty-nine.

Securities to be surrendered to Co. when the debt is paid.

In default of payment on the part of the Co., the Commonwealth to take possession of the road.

SECTION 5. In case of the failure of the said company to pay the interest due on the said scrip, issued under the act of April eighteenth, eighteen hundred and thirty-seven, and the acts in addition thereto, of April twenty-fifth, eighteen hundred and thirty-eight, and of April first, eighteen hundred and thirty-nine, until the maturity thereof, or to pay the expenses and costs of issuing the scrip herein provided for, or to pay to the treasurer of the Commonwealth the interest semi-annually, as herein provided, or to pay the

sum of seventy-five thousand dollars on the first day of July, eighteen hundred and sixty-five, and seventy-five thousand dollars on each succeeding first day of July, until and including July first, eighteen hundred and seventy, and fifty thousand dollars, being the balance of said sum of five hundred thousand dollars, on the first day of July, eighteen hundred and seventy-one, then in such case it shall be the duty of the treasurer of the Commonwealth to enter upon and take possession of the railroad of said company, and enforce all the provisions of said bond, given by said company to the Commonwealth, and make use of all the security or pledge held by the said Commonwealth, according to the provisions of said act of April eighteenth, eighteen hundred and thirty-seven, and the acts in addition thereto, of April twenty-fifth, eighteen hundred and thirty-eight, and April first, eighteen hundred and thirty-nine, for the payment of said debt and indemnity to the Commonwealth for all loss or injury in relation thereto. And the said mortgage and pledge, and the said bond are hereby declared not to be waived or impaired by any delay in enforcing the same or by any provisions of this act, until the entire payment and satisfaction of the debt due to the Commonwealth, according to the true and original intent and meaning of the same. [Approved May 23, 1857.]

Existing securities not to be waived or impaired.

AN ACT exempting certain classes of Vessels from Compulsory Pilotage. *Chap. 221*
Be it enacted, &c., as follows :

SECTION 1. All vessels of two hundred tons and under, sailing under a register, in any of the navigable waters or ports of the Commonwealth, shall be held to pay only one-half of the rates of pilotage to which vessels of that class, not specially exempt from compulsory pilotage, may, at the time be legally liable.

Vessels of 200 tons and under to pay half pilotage.

SECTION 2. No single-decked vessel, of three hundred and fifty tons and under, sailing under a coasting license, shall be liable to pay compulsory pilotage of any kind, for any navigable waters or ports of this Commonwealth: *provided, however,* that if the services of a commissioned pilot shall be voluntarily requested or accepted, for the conduct of any vessel herein exempted from compulsory pilotage, such services shall be compensated at the rates and in the manner prescribed by the regulations of the pilot commissioners.

Certain single decked vessels exempt.

Proviso.

SECTION 3. All vessels taking steam towage into or out of any port or harbor of this Commonwealth, by direction

Vessels taking steam towage to pay full pilotage.

Exception. of the owner or master, shall pay full pilotage ; but when steam towage is taken by request of the pilot, said vessel shall be liable to pay only seventy-five per cent. of the rates of pilotage to which such vessels would otherwise be legally liable.

Duties of pilot not to be exercised without a commission.

SECTION 4. No person not holding a commission as a pilot, (excepting those actually employed on board of the vessel for the voyage,) shall in any case exercise the duties of a pilot on board of any vessel within the waters of this Commonwealth, whether said vessel is liable to compulsory pilotage or not, provided a commissioned pilot offers his services, or can be obtained at a reasonable time, under a penalty of not less than twenty and not more than fifty dollars, for each and every offence.

Penalty.

Inconsistent provisions repealed.

SECTION 5. All acts and parts of acts, inconsistent herewith, are hereby repealed. [*Approved May 26, 1857.*]

Chap. 222

AN ACT concerning School-houses and other Public Buildings.

Be it enacted, &c., as follows :

Wilful injury, &c., to any school-house, church, &c., a misdemeanor.

Every person who shall wilfully and maliciously, or wantonly and without cause, destroy, deface, mar or injure any school-house, church or other building erected or used for the purposes of education, or religious instruction, or for the general diffusion of knowledge ; or who shall wilfully and maliciously, or wantonly and without cause, destroy or injure any of the out-buildings, fences, wells or appurtenances of said school-house, church or other building ; or who shall wilfully and maliciously, or wantonly and without cause, destroy or injure any furniture, apparatus or other property belonging to, or connected with any said school-house, church or other building, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before a justice of the peace, or any court of competent jurisdiction, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not more than one year. [*Approved May 26, 1857.*]

Penalty.

Chap. 223

AN ACT concerning the Neponset Bridge and Braintree and Weymouth Turnpike.

Be it enacted, &c., as follows :

May be laid out by county commissioners as common highways.

SECTION 1. The county commissioners of the county of Norfolk may, with the assent of the proprietors of the Neponset Bridge and the Braintree and Weymouth Turnpike Corporation, lay out the turnpikes, ways, draws and bridges of said corporations, as common highways, and in accord-

ance with the provisions of this act, and have and exercise the same powers relating thereto as are now had and exercised in the laying out of turnpikes; excepting, that in the allowance and payment of damages, under the provisions of the nineteenth section of the thirty-ninth chapter of the Revised Statutes, so much of said section as subjects the towns through which said roads and bridges pass, to refund the same, shall not apply to this act.

Exception as to damages.

SECTION 2. Said corporations are empowered to convey to said commissioners, their franchises, roads, bridges, and all rights in said ways, and said commissioners are authorized to receive, hold, maintain and lay out the same, subject to the following provisions and trusts, that is to say,—said commissioners shall have the superintendence of said bridges, and cause the same to be kept in good repair and safe and convenient for travel, with draws and passage-ways for vessels, and shall provide draw-tenders, toll-gatherers and other necessary agents, and discharge the duties incumbent upon said corporations, relative to the care and maintenance of said draws and bridges.

Conveyance of franchises, subject to what provisions and trusts

SECTION 3. Said commissioners and their successors as trustees, shall have and hold said bridges, with the right and franchise to take tolls, at present rates, at the same or any of the places upon said bridges and turnpikes where tolls are now taken, as said commissioners shall determine; and the regulations prescribed in the acts concerning said corporations, relating to the draws and bridges, the commutation of tolls, the persons from whom tolls may be collected, and the remedies for enforcing said regulations, so far as the same are applicable, shall be and remain in force while said bridges are under the superintendence of said commissioners.

Rights to take tolls, &c., vested in county commissioners.

SECTION 4. The net annual income of the tolls collected as aforesaid, shall be applied to defray the ordinary charges and expenses of repair and maintenance of said bridges, and if inadequate thereto, the deficiency shall be defrayed by said county; but the excess, if any, shall be invested and constitute a fund, to accumulate until the same shall have reimbursed to said county such portion of the same, paid by said county, as aforesaid, as the commissioners may direct, and thereafterwards to be permitted to accumulate, until the income of said fund shall, in the judgment of said commissioners, suffice for the future repair and maintenance of said bridges, and such income may be then applied for that purpose; and said tolls may be renewed whenever said fund shall prove inadequate to said purpose, subject to the right of the legislature to reduce the rates of toll or abolish the same.

Tolls, how disposed of, &c.

And said commissioners may permit said ways and bridges to be free from tolls at such intervals, during the accumulation of said fund, as they may judge expedient. And said commissioners are authorized, in the execution of said purposes, to fill and make solid such part of said Neponset Bridge as shall be by them deemed expedient, not closing or interrupting any channel. And after said bridges and ways shall be taken under this act, said commissioners are authorized to discontinue and remove entirely the bridge over Monatiquot River, in Braintree, if in their judgment the public interests shall require the discontinuance and removal of the same.

Bridges, authority to fill up and discontinue.

Liability for defects in bridges, &c.

SECTION 5. Liability for defects in said bridges, shall exist on the part of the towns wherein they respectively lie, in like manner as in cases of defects in town ways, and the damages which may be recovered for such defects, shall be reimbursed to said towns from the fund aforesaid; and in case said fund shall be insufficient for said purpose, the deficiency shall be supplied by the county; but in such event the fund shall be permitted to accumulate, until it shall reimburse to the county the sum so paid, with interest.

Consent of corporation required.

SECTION 6. Nothing in this act contained shall be taken or construed to limit, abridge, impair, or in any manner affect the franchise or rights of the Neponset Bridge Corporation, without the consent of said corporation being previously given thereto, by vote.

Annual statement to be filed in the secretary's office.

SECTION 7. Said commissioners shall annually file, in the office of the secretary of the Commonwealth, a statement, duly verified by oath, of the amount of tolls collected, and expenditures for repairs and maintenance in the execution of said trusts, exhibiting also the condition of said fund.

Act void unless accepted by the town of Quincy.

SECTION 8: This act shall not take effect, unless the same shall be accepted by the inhabitants of Quincy, at a legal meeting, duly held for said purpose. [*Approved May 26, 1857.*]

Chap. 224

AN ACT authorizing Passports.

Be it enacted, &c., as follows :

Secretary of the Commonwealth authorized to issue passports.

The secretary of the Commonwealth is hereby authorized to issue to any citizen of this Commonwealth, who may apply for the same, a passport or certificate, under the seal of the Commonwealth, setting forth the age, and a general description of the person applying for the same, and that he is a citizen of the Commonwealth of Massachusetts; and such passport or certificate shall be granted to any citizen, whatever his color may be; and may be in any form which the secretary of the Commonwealth may think expedient. [*Approved May 26, 1857.*]

AN ACT concerning Drains and Sewers in the City of Boston.

Chap. 225

Be it enacted, &c., as follows :

SECTION 1. The board of aldermen of the city of Boston may lay, make and maintain, in the said city, all such main drains or common sewers, through the lands of any persons or corporations, as they shall adjudge to be necessary for the public convenience or the public health; and may repair all such main drains or common sewers, from time to time, whenever repairs thereof shall be necessary.

Board of aldermen authorized to lay, make and maintain drains, &c.

SECTION 2. Whenever any lands or real estate shall be taken by virtue of this act, the said board of aldermen shall proceed in the taking thereof in the same manner, in all respects, as they now are, or hereafter may be required by law to proceed in taking land for public highways or streets; and all persons and corporations suffering damage in their property, by reason of the laying, making or maintaining any main drain or common sewer, as aforesaid, shall have all the rights and remedies for the ascertainment and the recovery of the amount of such damage, which are now, or hereafter may be provided by law for the ascertainment and recovery of damages for lands taken in said city of Boston for public highways or streets.

Whenever lands are taken, proceedings the same as when taken for highways.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 26, 1857.*]

AN ACT to fix the Salaries of the District-Attorneys for the Northern, Eastern and Southern Districts.

Chap. 226

Be it enacted, &c., as follows :

SECTION 1. The annual salaries of the district-attorneys for the northern and eastern districts, shall hereafter be fifteen hundred dollars each; and the annual salary of the district-attorney for the southern district, shall hereafter be twelve hundred dollars; to be paid to them respectively, out of the treasury of the State, in quarterly payments, and in that proportion for any part of a quarter.

Salaries established.

SECTION 2. This act shall take effect from and after its passage. [*Approved May 26, 1857.*]

AN ACT to incorporate the Winnisimmet Railroad Company.

Chap. 227

Be it enacted, &c., as follows :

SECTION 1. William R. Pearmain, Stephen Sibley, Thomas H. Carruth, John Taylor, and their associates and successors, are hereby made a corporation, by the name of the Winnisimmet Railroad Company, with power to construct, maintain and use a railway or railways, with convenient single or

Corporators.

Name.

Location.	double tracks, between Chelsea or Winnisimmet Ferry, and some convenient point in or near that portion of Chelsea called Prattville, upon the following routes, viz. :—Beginning on Winnisimmet Street, in said Chelsea, at or near the Winnisimmet Ferry; thence upon and over said Winnisimmet Street, and over and upon Broadway, so called, or streets parallel therewith, to Washington Avenue; upon and over Washington Avenue to Woodlawn Cemetery, or some convenient part of Prattville, so called, as the city council of Chelsea shall fix and determine. The said corporation shall have power to fix, from time to time, such rates of compensation for transporting persons or property, as they may deem expedient, not exceeding five cents for each passenger, and shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes. And provided that any time after the expiration of one year from the opening for use of said railroad in any street in which the same may be located, as provided by its charter, the city council of Chelsea may, by vote of the majority, determine as to the said track, that the same or any part thereof be discontinued, and thereupon the location shall be deemed revoked, in conformity with such vote of the city council: <i>provided</i> , that such taking and removal shall be at the expense of the said railroad company.
Rates of fare.	
Privileges, restrictions, &c.	
Proviso.	
Location granted to any other railroad.	SECTION 2. If any other railroad corporation shall obtain from the city council of said Chelsea authority to lay a track upon any route or street between Winnisimmet Ferry and Prattville, before the like authority shall have been obtained by this corporation, then so much of this act as authorizes the corporation hereby created, to lay a track or tracks in said street or route, shall become void. But this corporation may enter upon and use the track or tracks obtained by such other corporation upon such route or street, in such mode, and for such rates of compensation as may be agreed upon: or in case of disagreement, such mode or rates may be fixed by three commissioners, to be appointed by the supreme judicial court. Or this corporation, by leave of such city council, may construct their track over any other parallel street on their route to said Prattville.
City council to accept, &c.	SECTION 3. No railroad tracks shall be laid by said corporation, in Chelsea, before the acceptance of this act, by the city council thereof; and such tracks shall be constructed in such manner, and laid at such distances from the sidewalks on the streets through which said railroad may be located under this act, as the said board, upon their acceptance of

this act, direct: *provided*, that before the location of this road by the city council aforesaid, they shall give notice in some newspaper printed in said city, to the abutters, in the streets through which said railroad is proposed to be located, seven days at least before the hearing, that the abutters may respectively show cause, if any there be, why said location should not be made as aforesaid. And the written assent of said corporation to any vote or votes of the said city council, shall be filed with the city clerk.

Proviso.

Notice to abutters.

SECTION 4. Said tracks or roads shall be operated and used by the said corporation with horse-power only, and it shall not connect its track with any other railroad on which other power is used. The mayor and aldermen shall have power at all times to make such regulations as to the rate of speed and mode of use of the said tracks, as the public safety and convenience may require.

Horse-power only.

SECTION 5. Said corporation shall maintain and keep in repair such portions of the streets in said city, as shall be occupied by their tracks, and shall be liable for any loss or injury that any person may sustain by reason of any carelessness or misconduct of its agents or servants, in the management, construction or use of said tracks; and in case any recovery shall be had against said city, by reason of any such defect or want of repair, said railroad corporation shall be liable to pay said sum or sums recovered against it, together with all costs and reasonable charges incurred by the said city, in defence of the said suit or suits in which recovery shall be had; and shall not encumber any portion of the street not occupied by said road or tracks.

Repairs, &c.

SECTION 6. If any person shall wilfully and maliciously injure said track or tracks, or obstruct said corporation in the use of said railroad or tracks, or the passing of the cars or carriages of the said corporation thereon, such person, and all who shall be aiding or abetting therein, shall be punished by a fine not exceeding five hundred dollars, or may be imprisoned in the common jail for a period not exceeding three months. If said corporation, or its agents or servants, shall wilfully and maliciously obstruct any highway, or the passing of any carriage over the same, such corporation shall be punished by a fine not exceeding five hundred dollars.

Fine for obstruction or injury.

SECTION 7. The capital stock of this corporation shall not exceed seventy-five thousand dollars, to be divided into shares of fifty dollars each; and no share shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

Capital stock \$75,000, in shares of \$50 each.

SECTION 8. The city of Chelsea may, at any time during

City of Chelsea

may purchase
franchise, &c.

the continuance of the charter of the said corporation, and after ten years from the opening of any part of the road for use, purchase of the said corporation all franchise, property, rights and furniture of said corporation, by paying them therefor such a sum as will reimburse to each person who may be then a stockholder therein, the par value of his stock, together with a net profit of ten per cent. per annum from the time of the transfer of said stock to him on the books of the corporation, deducting the dividends received by said stockholders thereon.

May hold real and
personal estate.

SECTION 9. Said corporation shall have power to purchase and hold such personal and real estate in said Chelsea, as may be convenient and necessary for the purposes and management of said road.

Gauge and grade
of road.

SECTION 10. The said road shall be constructed and maintained in such form and manner, and upon such grade and with such gauge as the mayor and aldermen may, in their vote accepting this act, as herein provided, prescribe and direct. And whenever, in the judgment of said railroad corporation, it shall be necessary to alter the grade of any street so occupied by it, such alteration may be made at the sole expense of said corporation: *provided*, the same shall be assented to by the city council.

Proviso.

Act not to pre-
vent authorities,
&c.

SECTION 11. Nothing in this act shall be construed to prevent the city authorities from entering upon and taking up any of the public streets traversed by said railroad, for any purpose for which they may now lawfully take up the same.

Act void, unless,
&c.

SECTION 12. This act shall be void, so far as it relates to the right to construct said road in the streets or roads of said city, unless the same shall be accepted by the city council of the said city, and unless the same shall be accepted by the said company, and ten per cent. of the capital stock paid in within two years from the passage of this act.

Damages, if con-
structed over the
route of the Sa-
lem Turnpike and
Chelsea Bridge
Corporation.

SECTION 13. If said corporation construct their road over the road of the "Salem Turnpike and Chelsea Bridge Corporation," all damages arising therefrom, unless agreed upon by the parties, shall be fixed by three commissioners, to be appointed by the supreme judicial court. Said corporation shall be deemed a railroad corporation so far as to make such annual returns to the legislature as are or may be required by law; but not subject to the other general provisions of law in relation to railroad corporations.

Returns.

May lease or
transfer its prop-
erty to any other
like corporation.

SECTION 14. The corporation hereby created, is authorized and empowered to lease or transfer all its property, rights and privileges, or any part thereof, or of its tracks, to any other like corporation now existing, or which may here-

after be created, for the purpose of constructing a railroad track over and upon any part of the route contemplated by this act, on such terms, and to such extent, as may be mutually agreed upon between the parties; and make and execute any transfers, contracts or agreements that may be deemed necessary or proper for the purpose; and the corporation receiving such transfer shall thereupon have and hold the portion or property so transferred, with all the rights and privileges, and subject to the same restrictions and provisions as were applicable to this corporation. Purpose.

SECTION 15. The existence of said corporation is hereby limited to the period of fifty years from the passage of this act: *provided, nevertheless*, that the legislature may, at any time, repeal this act, or limit and restrict the powers herein granted. [*Approved May 26, 1857.*] Duration.
Proviso.

AN ACT relating to Divorce.

Chap. 228

Be it enacted, &c., as follows :

SECTION 1. Whenever a divorce from the bed and board has been or shall be decreed for any cause under the sixth section of the seventy-sixth chapter of the Revised Statutes, and the parties have or shall have lived separate, for five consecutive years next after such decree, a divorce from the bonds of matrimony may be decreed upon the petition of the party upon whose petition such decree of separation was granted; or after the parties have, or shall have lived separate for ten consecutive years, such divorce from the bond of matrimony may be decreed in favor of either party. Divorce from the bonds of matrimony, after divorce from bed and board, when it may be decreed.

SECTION 2. A divorce from the bond of matrimony may be decreed in favor of either party in all cases when one of the parties has deserted, or shall hereafter desert the other for the term of five years consecutively: *provided*, that when the libel is filed by the party deserting, it shall appear that the desertion was caused by extreme cruelty of the other party, or in case the libel is filed by the wife, that the desertion was caused by the gross or wanton and cruel neglect to provide suitable maintenance for her by the husband, he being of sufficient ability so to do. Divorces may be decreed to either party after a desertion of five years.
Proviso.

SECTION 3. When a divorce is decreed for any of the causes aforesaid, the court decreeing the same shall have full power, according to the circumstances of each case, to decree alimony to the wife, or any share of her estate in the nature of alimony to the husband. The court shall have power to grant alimony.

SECTION 4. The one hundred and twenty-sixth chapter Repeal

of the acts of the year eighteen hundred and thirty-eight, entitled, "An Act relating to Divorce," is hereby repealed: *provided*, that this act shall not affect any case or proceedings now pending. [*Approved May 26, 1857.*]

Chap. 229 AN ACT to perpetuate the Evidence of Title to Real Property obtained under Mortgage Deeds containing a Power of Sale.

Be it enacted, &c., as follows :

Mortgagee may, upon breach of the condition, give notice, &c.

SECTION 1. In all cases, in which a power of sale is contained in a mortgage deed of real property, the mortgagee, or any person having his estate therein, or in or by such power authorized to act in the premises, may, upon a breach of the condition thereof, give such notices and do all such acts as are authorized or required by such power: and he shall, within thirty days after selling such real property, in pursuance of such power, file a copy of the notice and his affidavit, in the office of the registry of deeds in the county or counties where such real property is situated; which affidavit shall set forth his acts in the premises fully and particularly. Such affidavit and copy of notice shall be recorded by the register, with a note of reference thereto, on the margin of the record of the mortgage deed. And if it shall appear by such affidavit, that he has in all respects complied with the requisitions of such power of sale, in relation to all things to be done by him before selling such real property, and has sold the same in the manner required by such power of sale, the affidavit, or a duly certified office copy of the record thereof, shall be admitted as evidence that the power of sale was duly executed.

Sale may bar all claim of dower.

SECTION 2. If the mortgage deed was executed by a man having at that time no lawful wife, or if being married, the wife of the mortgagor joined in such deed, in token of her release of dower, such sale shall be effectual to bar all claim and possibility of dower in such real property. [*Approved May 26, 1857.*]

Chap. 230 AN ACT in addition to an Act to incorporate the West Roxbury Railroad Company.

Be it enacted, &c., as follows :

Location.

SECTION 1. The West Roxbury Railroad Company is hereby authorized to lay a track or tracks, from the line separating the town of West Roxbury, and the city of Roxbury, on Centre Street, through and over Centre, Lowell, Washington and Tremont Streets, in the city of Roxbury, and over Tremont Street in the city of Boston; and to connect said track or tracks with the track or tracks of the Metropolitan Railroad Company,

To connect, &c.

on Tremont Street, near Dover Street, in the city of Boston, or at any other point on said Metropolitan Railroad, on the above streets, between said Dover Street and the West Roxbury line, or at said line: *provided*, said location shall be authorized and accepted by the city councils, respectively, of the cities of Boston and Roxbury: *provided, further*, that all tracks of said railroad shall be laid at such distances from the sidewalks in said cities as the mayors and aldermen thereof shall determine to be for the public safety and convenience. Said corporation shall have power to fix, from time to time, such rates of compensation for transporting persons or property thereon as they may think expedient; and be subject to all the duties, restrictions and liabilities, and entitled to all the rights and privileges prescribed by the forty-fourth chapter of the Revised Statutes, so far as the provisions of said chapter are applicable thereto.

Proviso.

Provided further.

Rates of fare.

SECTION 2. The West Roxbury Railroad Company is hereby authorized to enter upon and run their cars over the tracks of the Metropolitan Railroad Company from the point of junction to the Tremont House, and to return through Tremont, Boylston, Washington and Dover Streets, to Tremont Street again, to complete the circuit, or through such streets as the mayor and aldermen of the city of Boston may hereafter authorize; with power and authority to construct and maintain all necessary connections, paying such rates of compensation as may be agreed upon; and in case of disagreement as to such rates, or any other matter, the same shall be fixed and determined by three commissioners to be appointed by the supreme judicial court.

May run upon the track of the Metropolitan R. R.

SECTION 3. Said tracks or road shall be operated and used by said corporation with horse-power only, and it shall not connect its track with any other railroad on which other power is used. The mayors and aldermen of said cities shall have power, at all times, to make all such regulations as to the rate of speed and mode of use of said tracks, as the public convenience and safety may require.

Horse-power only.

SECTION 4. Said corporation shall maintain and keep in repair such portion of the streets, respectively, as shall be occupied by their tracks, and shall be liable for any loss or injury that any person may sustain, by reason of any carelessness, neglect or misconduct of its agents and servants, in the management, construction or use of said tracks or roads; and in case any recovery shall be had against said cities by reason of such defect, want of repair or use, said corporation shall be liable to pay to said cities any sums thus recovered against it, together with all cost and reasonable

Repairs, &c.

expenditures incurred by said cities, in the defence of any such suit or suits in which such recovery shall be had; and said corporation shall not encumber any portion of the streets not occupied by the said road or tracks.

Fine for obstructing, &c.

SECTION 5. If any person shall wilfully and maliciously obstruct said corporation in the use of said road or tracks, or the passing of the cars or carriages of said corporation thereon, such person or persons, and all who shall be aiding or abetting therein, shall be punished by a fine not exceeding five hundred dollars, or may be imprisoned in the common jail for a period not exceeding three months. If said corporation or its agents or servants shall, wilfully and maliciously, obstruct any highway, or the passing of any carriages over the same, such corporation shall be punished by a fine not exceeding five hundred dollars.

May hold real estate.

SECTION 6. Said corporation shall have power to purchase and hold such real estate, within said cities, as may be necessary or convenient for the purposes and management of said road.

Boston and Roxbury may purchase franchise, &c.

SECTION 7. The cities of Boston and Roxbury may, at any time during the continuance of the charter of said corporation, and after the expiration of ten years from the opening of any part of said road for use, purchase of said corporation all the franchise, property, rights and furniture of said corporation, by paying them therefor such a sum as will reimburse to each person who may then be a stockholder therein, the par value of his stock, together with a net profit of ten per cent. per annum, from the time of the transfer of said stock to him on the books of the corporation, deducting the dividends received by said stockholder thereon.

Grade and gauge of road.

SECTION 8. The said road shall be constructed and maintained, in such form and manner, and upon such grade, and with such gauge as the mayors and aldermen of said cities may, in their votes, fixing and determining the routes thereof as aforesaid, prescribe and direct; and whenever, in the judgment of said corporation, it shall be necessary to alter the grade of any street so occupied by it, such alteration may be made at the sole expense of said corporation: *provided*, the same shall be assented to by the mayors and aldermen of said cities.

Proviso.

Mayor and aldermen may discontinue the location of the road.

SECTION 9. At anytime after the expiration of six months from the time of fixing and locating the tracks of said railroad, in any street in which the same may be located, as provided by its charter, the mayor and aldermen of the cities of Boston and Roxbury respectively, may, by votes of the major part thereof, determine as to so much of said track as is

located within the limits of their respective cities, that the same, or any part thereof, may be discontinued; and thereupon the location shall be deemed to be revoked, and the tracks of said railroad, if the same shall have been laid, shall forthwith be taken up and removed, in conformity with such vote or order of said mayor and aldermen: *provided*, that such taking up and removal shall be at the expense of said railroad company.

Proviso.

SECTION 10. Nothing in this act shall be construed to prevent the city authorities of said cities from taking up any of the public streets traversed by the said railroad, for the purposes for which they may lawfully take up the same.

Act not to prevent authorities, &c.

SECTION 11. Ten per cent. of the additional capital hereby authorized shall be paid in within two years from the passage of this act.

Ten per cent. of additional capital to be paid, &c.

SECTION 12. The said corporation shall be deemed a railroad corporation, so far as to be subject to make such annual returns to the legislature as are, or may be, prescribed by law; but not to the other general provisions of law in relation to railroad corporations.

Returns.

SECTION 13. The West Roxbury Railroad Company are hereby authorized to increase their capital stock to an amount not exceeding two hundred thousand dollars, making it four hundred thousand dollars in all, to be divided into shares of fifty dollars each; and no shares shall be issued for a less sum, to be actually paid in on each, than the par value of the shares which shall first be issued.

Increase of capital stock \$200,000

SECTION 14. The existence of said corporation is hereby limited to the period of fifty years from the passage hereof.

Duration.

SECTION 15. This act shall be void, provided the Metropolitan Railroad Company shall have extended and completed the tracks of their road over said Tremont, Washington, Lowell and Centre Streets, to the line of West Roxbury, as authorized by their charter, on or before the first day of September next, and shall there connect with the West Roxbury Railroad on such terms as shall be fixed by three commissioners, to be appointed by the supreme judicial court, in case of disagreement between the two companies; and *provided*, *further*, that the said Metropolitan Railroad Company shall have given the petitioners notice on or before the first day of July next, of their intention so to build over the above streets to the West Roxbury line.

Act void provided the Metropolitan Railroad Co. extend its tracks, &c.

Provided further.

SECTION 16. Any provisions or conditions in the charter of any existing railroad, that may conflict with the provisions of this bill, are hereby repealed. [Approved May 26, 1857.]

Conflicting provisions of other charters repealed

Chap. 231

AN ACT in relation to Worthless Bank Bills.

*Be it enacted, &c., as follows :*Penalty for hav-
ing in possession.

SECTION 1. If any person shall have in his possession at the same time, five or more uncurrent bank bills or notes, which are worthless as bank bills or notes, knowing the same to be worthless as aforesaid, or papers not bank bill or notes, but made, in the similitude of bank bills or notes, or papers purporting to be the bills or notes of any bank which has never existed, knowing the character of such papers, with intent to pass, utter or circulate the same, or to procure any other person to do so, for the purpose of injuring or defrauding, he shall be punished by imprisonment in the state prison for not more than five years, or by fine not exceeding five hundred dollars, and by imprisonment in the house of correction not exceeding three years.

Uttering or pass-
ing.

SECTION 2. Any person who shall utter or pass, or tender in payment as true, any such worthless or uncurrent bank bill or note, or any paper not a bank bill or note, but made in the similitude of a bank bill or note, or any paper purporting to be the bill or note of any bank which has never existed, knowing the same to be worthless and uncurrent, as aforesaid, with intent to injure and defraud, shall be punished by imprisonment in the state prison for not more than five years, or by a fine not exceeding five hundred dollars, and by imprisonment in the house of correction not exceeding three years.

Officer shall pro-
ceed as provided
in chapter 168 of
1855.

SECTION 3. Whenever any worthless and uncurrent bank bills or notes, or papers described in this act, shall come to the possession of any sheriff, constable, police officer, or other officer of justice, the same proceedings shall be had in relation to them, as is provided in the one hundred and sixty-eighth chapter of the acts of the year one thousand eight hundred and fifty-five, in relation to counterfeit bank bills.

Powers and du-
ties of banks.

SECTION 4. Every bank now established, or which may be established in this Commonwealth, shall have the same powers, and be subject to the same duties, in relation to the bank bills, notes and papers in this act described, as are now provided in the three hundred and seventy-eighth chapter of the acts of the year one thousand eight hundred and fifty-three, in relation to counterfeit and altered bills, except that instead of the word "counterfeit," or "altered," the word "worthless," shall be stamped thereon. [Approved May 26, 1857.]

AN ACT relating to Auctioneers.

Chap. 232

Be it enacted, &c., as follows :

SECTION 1. Each auctioneer licensed under the provisions of the twenty-ninth chapter of the Revised Statutes, shall give a bond, if required by the persons granting his license, in a reasonable penalty, with sufficient sureties, to the treasurer of the town or city where he may be licensed, with condition that he shall, in all things, conform to the laws relating to auctions.

Auctioneer to give bond if required.

SECTION 2. If any auctioneer or other person shall be guilty of any fraud or deceit, in relation to sales by auction, he shall for every such offence, forfeit a sum not exceeding one thousand dollars.

Penalty for fraud or deceit.

SECTION 3. The sixth section of the twenty-ninth chapter of the Revised Statutes,—all of the ninth chapter of the Revised Statutes except the first three sections,—the two hundred and sixty-fourth chapter of the acts passed in the year eighteen hundred and forty-seven,—the forty-second chapter of the acts passed in the year eighteen hundred and fifty, and the two hundred and eighty-sixth chapter passed in the year eighteen hundred and fifty-two, are hereby repealed: *provided, however*, that this repeal shall not operate to revive any law repealed by any of said acts. [Approved May 26, 1857.]

Statutes and laws repealed.

Proviso.

AN ACT concerning the Crime of Embezzlement.

Chap. 233

Be it enacted, &c., as follows :

If any person, to whom any money, goods, or other property, which may be the subject of larceny, shall have been delivered, shall embezzle, or fraudulently convert to his own use, or shall secrete, with intent to embezzle, or fraudulently convert to his own use, such money, goods or property, or any part thereof, he shall be deemed, by so doing, to have committed the crime of simple larceny. [Approved May 26, 1857.]

Embezzlement of property which may be the subject of larceny.

AN ACT in addition to "An Act to incorporate the Proprietors of the Catholic Cemetery, in Dorchester."

Chap. 234

Be it enacted, &c., as follows :

SECTION 1. The Catholic Cemetery Association, in Dorchester, is hereby authorized to hold real and personal estate necessary and convenient for the purposes mentioned in said act of incorporation, passed May twenty-fourth, eighteen hundred fifty-one, of the value of ten thousand dollars, in addition to the amount which said corporation is now entitled to hold.

May hold additional real and personal estate to amount of \$10,000.

Act not to affect provisions of 3d and 4th sections of chapter 257 of 1855.

May locate in Dorchester or elsewhere, with consent, &c.

Proviso.

SECTION 2. Nothing herein contained shall be construed to repeal, impair or affect the provisions of sections three and four of chapter two hundred and fifty-seven of the acts of eighteen hundred fifty-five, or to permit the association aforesaid to use any land for the burial of the dead, not now appropriated for a burial ground, without the consent of the town or city in which it lies, expressed at some meeting specially called for that purpose. And the said catholic cemetery association may locate and use such burial ground in the town of Dorchester, or in either of the adjoining towns, the same giving its consent as aforesaid: *provided*, that if the consent of any town is once refused, at a meeting called as aforesaid, no subsequent meeting shall be called for the purpose.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 26, 1857.*]

Chap. 235 AN ACT to exempt Certain Articles from Attachment and Execution.

Be it enacted, &c., as follows:

Articles of personal property exempted.

SECTION 1. The following articles of personal property shall not be liable to attachment on *mesne* process, and shall be exempted from execution, to wit:—

First.—The necessary wearing apparel of the debtor, and of his wife and children; one bedstead, bed, and the necessary bedding for every two persons of the family; one iron stove, used for warming the dwelling-house; and fuel, not exceeding the value of twenty dollars, procured and designed for the use of the family.

Secondly.—Other household furniture, necessary for the debtor and his family, not exceeding one hundred dollars in value.

Thirdly.—The Bibles and school books, and library used by the debtor or his family, not exceeding fifty dollars in value.

Fourthly.—One cow, six sheep, one swine, and two tons of hay.

Fifthly.—The tools, implements, and fixtures of the debtor, necessary for carrying on his trade or business, not exceeding one hundred dollars in value.

Sixthly.—Materials and stock of the debtor, designed and procured by him for carrying on his trade or business, and necessary therefor, and intended to be used or wrought therein, not exceeding one hundred dollars in value.

Seventhly.—Provisions necessary, procured and intended for the use of the family of the debtor, not exceeding fifty dollars in value.

Eighthly.—One pew belonging to the debtor, and occupied by him or his family, in a house of public worship: *provided*, that nothing herein contained shall prevent the sale of any pew for the non-payment of any tax legally laid upon said pew. Proviso.

Ninthly.—The uniform of an officer, non-commissioned officer or private in the militia, and the arms and accoutrements required by law to be kept by him.

Tenthly.—Rights of burial, and tombs, while in use as repositories for the dead.

SECTION 2. The twenty-second section of the ninety-seventh chapter of the Revised Statutes, the seventy-fifth chapter of the statutes of the year one thousand eight hundred and thirty-nine, the two hundred and sixty-second chapter of the statutes of the year one thousand eight hundred and fifty-one, and the two-hundred and sixty-fourth chapter of the statutes of the year one thousand eight hundred and fifty-five, are hereby repealed. [*Approved May 26, 1857.*] Statutes repealed

AN ACT concerning the discovery of a Remedy for the Potato Disease. Chap. 236

Be it enacted, &c., as follows:

SECTION 1. The act of eighteen hundred and fifty-seven, repealing chapter eighteen, of the resolves of eighteen hundred and fifty-one, shall not affect applications for the premium offered in said chapter of the said resolves, made previous to its passage, and such applications are hereby referred to the board of agriculture. Applications for premium.

SECTION 2. It shall be the duty of the board of agriculture to investigate the various methods of arresting the disease of the potato, proposed in the aforesaid applications, and to report the results of their investigations to the legislature, for its action thereon. [*Approved May 27, 1857.*] Board of agriculture to report.

AN ACT in relation to Common Carriers.

Chap. 237

Be it enacted, &c., as follows:

Whenever any common carrier shall have transported property consisting of fresh meats, fresh fish, shell-fish, fruit or vegetables, to their place of destination, and shall have notified the owner or consignee of the arrival of the same, and the owner or consignee thereof shall, after such notice, omit or refuse to receive and take away the same, and pay the freight and proper charges thereon, the same property may be sold forthwith by said carrier, (in the exercise of a reasonable discretion,) for whom it may concern, at public or private sale, without advertising, and the proceeds shall Meats, fish, fruit and vegetables.

Carrier may sell upon refusal of consignee, &c.

be paid over to the owner or consignee, after deducting the amount of said freight and charges thereon, and expenses of sale: *provided, however*, that if the owner or consignee of said property cannot be found on reasonable inquiry, such sale may be made without the notice herein required to be given. [*Approved May 27, 1857.*]

Chap. 238 AN ACT to change the Boundary Line between the Towns of Lynnfield and North Reading.

Be it enacted, &c., as follows :

Boundary line defined.

SECTION 1. So much of the town of North Reading, in the county of Middlesex, as lies south-easterly of a line commencing at the stone monument on the line between the towns of Reading and North Reading, at the north-west corner of Israel A. Parsons' land, and thence running north, fifty-three degrees east, one hundred and sixty rods to a stone monument on the easterly side of the dwelling-house owned by Charles Norwood, with all the estates thereon, is hereby set off from said town of North Reading and annexed to the town of Lynnfield, in the county of Essex; and so much of said town of Lynnfield, as lies north-westerly of a line commencing at the stone monument last described, and thence running north, thirty-five degrees east, three hundred rods, to a stone monument on the southerly bank of Ipswich River, opposite the school-house in the east school district, in said town of North Reading, with all the inhabitants and estates thereon, is hereby set off from said town of Lynnfield, and annexed to said town of North Reading.

Taxes of inhabitants and estates set off.

SECTION 2. The said inhabitants and estates so set off, shall be liable to pay all taxes that have been legally assessed on them, by the towns of Lynnfield and North Reading respectively, in the same manner as if this act had not been passed.

Support of paupers.

SECTION 3. If any persons who have heretofore gained a legal settlement in said town of Lynnfield, by reason of residence on the territory set off to the town of North Reading as aforesaid, or who may derive such settlement from any such residence, shall hereafter come to want and stand in need of relief, or support, as paupers, they shall be relieved and supported by said town of North Reading, in the same manner as if they had gained a legal settlement in that town.

Proportion of taxes.

SECTION 4. The town of North Reading shall pay to the treasurer of the town of Lynnfield, until the next decennial census, the just proportion of all state and county taxes which may be assessed upon said town of Lynnfield; said proportion

to be determined by the excess of the valuation of the polls and estates hereby set off to North Reading, over and above the valuation of the estates hereby set off to said Lynnfield, according to the valuation thereof next preceding the passage of this act.

SECTION 5. Those portions of the towns of Lynnfield and North Reading hereby set off, respectively, from each to the other, shall, for the purpose of electing senators and representatives to the general court, until the next decennial census, or until another apportionment of senators and representatives, remain as before the passage of this act, parts of the said towns of Lynnfield and North Reading, respectively; and the inhabitants of the said portions shall vote in the election of the aforesaid officers, with the inhabitants of that town in which the territory where they shall reside was situated prior to the passage of this act.

Election of senators and representatives.

SECTION 6. This act shall not take effect until it shall have been duly accepted by the towns of Lynnfield and North Reading, at meetings legally called and held for that purpose. [*Approved May 27, 1857.*]

Act not to take effect until accepted, &c.

AN ACT to extend and unite the Hampshire and Hampden Railroad with the Connecticut River Railroad.

Chap. 239

Be it enacted, &c., as follows :

SECTION 1. The commissioners that have been or may hereafter be appointed under the act of the twenty-fourth day of May, in the year eighteen hundred and fifty-six, entitled, "An Act authorizing the Hampshire and Hampden Railroad Corporation to extend their Railroad," are hereby authorized and empowered to define and determine how the said Hampshire and Hampden Railroad Corporation shall connect, in conformity with the provisions of their original act of May twenty-second in the year eighteen hundred and fifty-two, with the Connecticut River Railroad, so as to best promote the convenience and accommodation of the public, regard being had to the situation and circumstances of both railroads. And the said commissioners may impose such rules and regulations respecting the mode in which the two corporations aforesaid may use the tracks incident to this connection, and may also decide and determine all questions incident thereto in law or equity which may arise.

Commissioners to define and determine how.

May impose rules and regulations as to use of track, &c.

SECTION 2. The Hampshire and Hampden Railroad Corporation are hereby authorized to extend their road, in order to connect and unite with the Connecticut River Railroad in conformity with the determination of the commissioners, which determination, in this respect, shall be conclusive on the parties. [*Approved May 27, 1857.*]

Hampshire and Hampden Railroad Corporation may extend.

Chap. 240

AN ACT concerning the Annual Returns of Railroads.

*Be it enacted, &c., as follows :*Form of return
to be made by
Horse Railroad
Corporations.

SECTION 1. Every horse or street railroad corporation that has been, or may be hereafter incorporated, shall, instead of the return now required from them by law, hereafter render to the secretary of the Commonwealth, each year, a return that shall embrace full and complete information upon the several items hereinafter enumerated.

[FORM OF RETURN.]

CONDITION OF THE COMPANY.

Capital stock, fixed by charter,.....
 Capital stock, as voted by the company,.....
 Capital stock paid in, in cash,.....
 Capital stock paid in, in work and materials, by contractors
 and others,.....
 Funded debt,.....
 Floating debt,.....
 Total debt,.....
 Amount of above debt secured by mortgage of the road and
 franchise, or any property belonging to the corporation, or
 standing in its name,.....
 Number of mortgages on road and franchise, or any property
 of the corporation, specifying the number and amount of
 mortgages on road and franchise, and each kind of property,
 Amount of assets on hand, exclusive of the road and equip-
 ment, and exclusive of all property on hand, used, or which
 is to be used, in running the road and keeping it in repair,

COST OF THE ROAD.

Amount expended for labor in excavating for the track, laying
 foundation and rails,.....
 Amount expended for timber for foundation,.....
 Amount expended for iron and other metal for rails, chairs,
 spikes, or other articles, used in building the road,.....
 Amount expended for paving,.....
 Amount expended for paving stones,.....
 Amount expended for engineering,.....
 Amount expended for interest, salaries of officers during con-
 struction of road, and other expenses not included in any of
 the above items, which have been included on the books of
 the company in the cost of the road, not including items of
 equipment or running expenses, as mentioned below,.....
 Total cost of road,.....
 Amount included in the present and in past years, among the
 running expenses for estimated or actual depreciation of the
 road,.....
 Net cost of road,.....

COST OF EQUIPMENT.

Number of cars, and cost,.....
 Number of horses, and cost,.....

Cost of omnibuses, sleighs and other vehicles, excepting cars, owned by the company,
Cost of land and buildings thereon when purchased,
Cost of buildings used for offices, stables, &c., erected by the company, or standing on land not owned by the company, ..
Cost of other articles of equipment, (specifying what,)
Total cost of equipment,
Amount included in the present and in past years in the running expenses for estimated or actual depreciation of any of the above items,
Net amount at which the equipment stands charged on the books of the company,

CHARACTERISTICS OF THE ROAD.

Length of single main track,
Length of double main track,
Total length of road,
Length of branches owned by the company, stating whether they have a single or double track,
Aggregate length of switches, sidings, turnouts, and other track, excepting main track and branches,
Total length of rail,
Weight of rail used, per yard, (specifying whether of cast or rolled iron,)
Maximum grade, per mile, on road, with length of grade, ...
Shortest radius of curvature, with length of curve,
Greatest length of single track on road between two turnouts,
Total length of main track which is paved,

DOINGS DURING THE YEAR.

Total number of miles run during the year,
Number of passengers carried in the cars,
Rate of speed adopted, including stops and detentions,
Rate of speed actually attained, including stops and detentions,
Number of persons employed, regularly, (specifying the occupations of each,)
Total number of trips run during the year,
Average number of passengers each trip,

EXPENDITURES FOR WORKING THE ROAD.

For repairs of road, including repairs of foundation, renewals of iron, and renewals of pavement,
For general repairs, including repairs of cars, omnibuses and harnesses, and for shoeing horses,
For repairs of real estate, including repairs of buildings used as stables, offices, or for any other purposes, by the company,
For wages, including the wages of every person regularly employed, excepting the president, directors, superintendent and treasurer,
For interest,
For taxes and insurance,
For tolls paid other companies for the right to pass over their roads,
For rent paid other companies for use of their roads,
For provender,—to include cost of hay, grain, straw, or other articles, used for the food and bedding of horses,

For miscellaneous articles purchased during the year—such as harnesses, blankets, &c., the use of which continues for one or more years—and not included in the cost of equipment,	
For loss on horses—that is to say, the difference between the present estimated value of the horses owned by the company subtracted from the estimated value of those on hand at the commencement of the year, added to the cost of those purchased during the year; or if this is the first report of the company, then the difference between the estimated value of the horses on hand, and their cost—giving the present average estimated value of each horse,	
For incidental expenses,—to include printing, president's, directors', treasurer's and superintendent's salaries, and all expenses other than those belonging to the actual working of the road,	
For all other expenses,	
For amount charged on the company's books during the year, for estimated or actual depreciation of the following property:—	
Cars,	\$
Horses,	
Omnibuses,	
Real Estate,	
Road,	
Other property,	
Total,	
Total expenses,	

EARNINGS.

Received from passengers in cars and omnibuses, and for tickets sold,	
From other roads, as toll or rent for use of road,	
From United States mails,	
For sales of manure,	
From other sources,	
Total earnings,	
Net earnings, after deducting expenses,	
Surplus earnings of previous year, on hand,	
Net earnings, as above,	
Total surplus for payment of dividends,	
Dividends declared during the year,	
Total percentage of dividends for the year,	
Present surplus,	

MISCELLANEOUS.

Increase during the year—	
Of capital stock as fixed by the charter,	
Of capital stock as voted by the company,	
Of capital stock paid in,	
Increase of funded debt, during the year,	
Increase of floating debt, during the year,	
Decrease of funded debt, during the year,	
Decrease of floating debt, during the year,	
Increase of mortgage debt, during the year,	
Decrease of mortgage debt, during the year,	

Increase in cost of road, during the year, including amount charged for depreciation thereon,.....
Decrease in nominal cost of road, by amount charged for depreciation thereon,.....
Increase in cost of equipment, during the year, including amount charged for depreciation thereon,.....
Decrease in cost of equipment, by sale of any portion thereof, or by amount charged for depreciation,.....
List of accidents on road, during the year,

SECTION 2. The returns required by this act shall be made at the same time, and in the same manner, as the returns of other railroad corporations, as provided in the fifth section of the fortieth chapter of the acts of the year one thousand eight hundred and fifty-seven. And all returns of railroad corporations shall be made to include the business of the year ending on the thirtieth day of November, annually; and the first annual return of any railroad corporation, shall always state the number of months and days included in the return.

Returns to be made, how and when.

SECTION 3. Every horse or street railroad corporation that shall refuse or neglect to render the return required by the first and second sections of this act, shall forfeit and pay to the Commonwealth, one hundred dollars for each and every day that they shall so refuse or neglect to make said return. And it is hereby made the duty of the secretary of the Commonwealth, to notify the attorney-general whenever any of the beforementioned corporations shall refuse or neglect to make the returns required of them by this act; and it shall be the duty of the attorney-general to commence a suit in behalf of the Commonwealth at once, against said corporation, in any court competent to try the same, and to prosecute the same to final judgment.

Penalty for neglect.

SECTION 4. It shall be the duty of the secretary of the Commonwealth to cause to be prepared blank forms of returns, with spaces for the insertion of information upon the several items mentioned in the first section of this act, and transmit copies thereof to the several corporations mentioned in said first section.

Blank forms.

SECTION 5. The second section of the acts of eighteen hundred and forty-nine, chapter one hundred and ninety-one, shall be so construed as to apply to all horse or street railway corporations that have been or may hereafter be established. [Approved May 27, 1857.]

Sec. 2 of chap. 191 of 1849, to apply, &c.

Chap. 241 AN ACT to apportion and assess a Tax of Eight Hundred Ninety-nine Thousand Nine Hundred and Seventy-three Dollars.

Be it enacted, &c., as follows :

Cities and towns
assessed.

SECTION 1. Each city or town hereinafter named within this Commonwealth, shall be assessed and pay the several sums with which they stand respectively charged in the following schedule.

SCHEDULE.

SUFFOLK COUNTY.

Boston, . . .	Two hundred ninety-six thousand seven-ty-three dollars,	\$296,073 00
Chelsea, . . .	Five thousand two hundred ninety-two dollars,	5,292 00
North Chelsea, .	One thousand one hundred sixty-one dollars,	1,161 00
		\$302,526 00

ESSEX COUNTY.

Amesbury, . . .	One thousand seven hundred nineteen dollars,	\$1,719 00
Andover, . . .	Four thousand eight hundred thirty-three dollars,	4,833 00
Beverly, . . .	Three thousand four hundred sixty-five dollars,	3,465 00
Boxford, . . .	Eight hundred thirty-seven dollars, . . .	837 00
Bradford, . . .	Six hundred twelve dollars,	612 00
Danvers, . . .	Five thousand two hundred forty-seven dollars,	5,247 00
Essex,	One thousand eight dollars,	1,008 00
Georgetown, . .	One thousand one hundred seventy-nine dollars,	1,179 00
Gloucester, . .	Three thousand nine hundred seventy-eight dollars,	3,978 00
Groveland, . . .	Six hundred seventy-five dollars, . . .	675 00
Hamilton, . . .	Six hundred ninety-three dollars, . . .	693 00
Haverhill, . . .	Three thousand six hundred forty-five dollars,	3,645 00
Ipswich,	Seventeen hundred nineteen dollars, . .	1,719 00
Lawrence, . . .	Eighty-nine hundred nineteen dollars, .	8,919 00
Lynn,	Sixty-nine hundred fifty-seven dollars, .	6,957 00
Lynnfield, . . .	Five hundred fifty-eight dollars, . . .	558 00

ESSEX COUNTY—CONTINUED.

Manchester, . . .	Eight hundred forty-six dollars, . . .	\$846 00
Marblehead, . . .	Thirty-three hundred twelve dollars, . .	3,312 00
Methuen,	Sixteen hundred eighty-three dollars, . .	1,683 00
Middleton, . . .	Four hundred ninety-five dollars, . . .	495 00
Newbury,	One thousand thirty-five dollars, . . .	1,035 00
Newburyport, . .	Eighty-three hundred sixty-one dollars,	8,361 00
Rockport,	Twelve hundred forty-two dollars, . . .	1,242 00
Rowley,	Seven hundred twenty-nine dollars, . .	729 00
Salem,	Nineteen thousand nine hundred ninety-eight dollars,	19,998 00
Salisbury,	Sixteen hundred sixty-five dollars, . . .	1,665 00
Saugus,	Eight hundred nineteen dollars,	819 00
Topsfield,	Seven hundred fifty-six dollars,	756 00
Wenham,	Six hundred twenty-one dollars,	621 00
West Newbury, . .	Nine hundred fifty-four dollars,	954 00
		\$88,560 00

MIDDLESEX COUNTY.

Acton,	Nine hundred dollars,	\$900 00
Ashby,	Nine hundred eighteen dollars,	918 00
Ashland,	Seven hundred two dollars,	702 00
Bedford,	Five hundred seventy-six dollars,	576 00
Billerica,	Thirteen hundred twenty-three dollars,	1,323 00
Boxborough, . . .	Three hundred sixty-nine dollars,	369 00
Brighton,	Twenty-four hundred forty-eight dollars,	2,448 00
Burlington,	Four hundred fifty dollars,	450 00
Cambridge,	Fifteen thousand five hundred seventy dollars,	15,570 00
Carlisle,	Five hundred thirteen dollars,	513 00

MIDDLESEX COUNTY—CONTINUED.

Charlestown, . .	Thirteen thousand one hundred seventy-six dollars,	\$13,176 00
Chelmsford, . .	Fifteen hundred twelve dollars,	1,512 00
Concord,	Nineteen hundred twenty-six dollars,	1,926 00
Dracut,	Eleven hundred twenty-five dollars,	1,125 00
Dunstable, . . .	Five hundred forty-nine dollars,	549 00
Framingham, . .	Twenty-nine hundred fifty-two dollars,	2,952 00
Groton,	Twenty-one hundred sixty dollars,	2,160 00
Holliston,	Thirteen hundred eighty-six dollars,	1,386 00
Hopkinton, . . .	Fifteen hundred thirty-nine dollars,	1,539 00
Lexington,	Seventeen hundred eighty-two dollars,	1,782 00
Lincoln,	Seven hundred twenty dollars,	720 00
Littleton,	Seven hundred thirty-eight dollars,	738 00
Lowell,	Twenty-five thousand eight hundred twelve dollars,	25,812 00
Malden,	Twenty-seven hundred dollars,	2,700 00
Marlborough, . .	Nineteen hundred twenty-six dollars,	1,926 00
Medford,	Thirty-six hundred forty-five dollars,	3,645 00
Melrose,	Eight hundred ten dollars,	810 00
Natick,	Fifteen hundred ninety-three dollars,	1,593 00
Newton,	Forty-seven hundred sixty-one dollars,	4,761 00
Pepperell,	Eleven hundred ninety-seven dollars,	1,197 00
Reading,	Eighteen hundred eighteen dollars,	1,818 00
Sherborn,	Eight hundred ten dollars,	810 00
Shirley,	Eight hundred ninety-one dollars,	891 00
Somerville,	Three thousand ninety-six dollars,	3,096 00
S. Reading,	Twelve hundred seventy-eight dollars,	1,278 00
Stoneham,	Nine hundred eighteen dollars,	918 00
Stow,	Nine hundred eighty-one dollars,	981 00
Sudbury,	Fourteen hundred four dollars,	1,404 00

MIDDLESEX COUNTY—CONTINUED.

Tewksbury, . . .	Nine hundred fifty-four dollars, . . .	\$954 00
Townsend, . . .	Thirteen hundred fifty dollars, . . .	1,350 00
Tyngsborough, .	Seven hundred thirty-eight dollars, . .	738 00
Waltham, . . .	Forty-one hundred seventy-six dollars, .	4,176 00
Watertown, . . .	Thirty-four hundred thirty-eight dollars,	3,438 00
Wayland, . . .	Seven hundred seventy-four dollars, . .	774 00
W. Cambridge, .	Twenty-four hundred seventy-five dollars,	2,475 00
Westford, . . .	Twelve hundred forty-two dollars, . . .	1,242 00
Weston, . . .	Ten hundred eighty dollars,	1,080 00
Wilmington, . .	Six hundred thirty-nine dollars,	639 00
Winchester, . .	Ten hundred twenty-six dollars,	1,026 00
Woburn, . . .	Three thousand fifteen dollars,	3,015 00
		\$127,881 00

WORCESTER COUNTY.

Ashburnham, . .	Eleven hundred twenty-five dollars, . .	\$1,125 00
Athol,	One thousand ninety-eight dollars, . . .	1,098 00
Auburn,	Six hundred forty-eight dollars,	648 00
Barre,	Twenty-two hundred twenty-three dollars	2,223 00
Berlin,	Four hundred fifty-nine dollars,	459 00
Blackstone, . . .	Twenty-eight hundred eight dollars, . .	2,808 00
Bolton,	Eight hundred thirty-seven dollars, . . .	837 00
Boylston,	Seven hundred two dollars,	702 00
Brookfield, . . .	One thousand forty-four dollars,	1,044 00
Charlton,	Fourteen hundred ninety-four dollars, .	1,494 00
Clinton,	Fourteen hundred seventy-six dollars, .	1,476 00
Dana,	Three hundred seventy-eight dollars, . .	378 00

WORCESTER COUNTY—CONTINUED.

Douglas, . . .	Eleven hundred thirty-four dollars, . . .	\$1,134 00
Dudley, . . .	One thousand twenty-six dollars, . . .	1,026 00
Fitchburg, . . .	Thirty-two hundred eighty-five dollars, .	3,285 00
Gardner, . . .	Nine hundred twenty-seven dollars, . . .	927 00
Grafton, . . .	Twenty-two hundred forty-one dollars, .	2,241 00
Hardwick, . . .	Twelve hundred seventy-eight dollars, .	1,278 00
Harvard, . . .	Eleven hundred eighty-eight dollars, . .	1,188 00
Holden, . . .	Twelve hundred fifty-one dollars, . . .	1,251 00
Hubbardston, .	Ten hundred sixty-two dollars,	1,062 00
Lancaster, . . .	Ten hundred sixty-two dollars,	1,062 00
Leicester, . . .	Eighteen hundred eighty-one dollars, . .	1,881 00
Leominster, . .	Two thousand thirty-four dollars,	2,034 00
Lunenburg, . . .	Nine hundred ninety dollars,	990 00
Mendon,	One thousand fifty-three dollars,	1,053 00
Milford,	Twenty-one hundred eighty-seven dollars,	2,187 00
Millbury,	Sixteen hundred forty-seven dollars, . .	1,647 00
New Braintree, .	Eight hundred nineteen dollars,	819 00
North Brookfield,	Eleven hundred seven dollars,	1,107 00
Northborough, .	One thousand eight dollars,	1,008 00
Northbridge, . .	One thousand ninety-eight dollars, . . .	1,098 00
Oakham,	Six hundred seventy-five dollars,	675 00
Oxford,	Fifteen hundred fifty-seven dollars, . . .	1,557 00
Paxton,	Four hundred ninety-five dollars,	495 00
Petersham, . . .	Twelve hundred thirty-three dollars, . .	1,233 00
Phillipston, . . .	Five hundred ninety-four dollars,	594 00
Princeton, . . .	Nine hundred seventy-two dollars,	972 00
Royalston, . . .	Eleven hundred eighty-eight dollars, . .	1,188 00
Rutland,	Eight hundred twenty-eight dollars, . . .	828 00

WORCESTER COUNTY—CONTINUED.

Shrewsbury, . . .	Twelve hundred sixty dollars,	\$1,260 00
Southborough, . .	Nine hundred sixty-three dollars, . . .	963 00
Southbridge, . . .	Eighteen hundred dollars,	1,800 00
Spencer,	Thirteen hundred sixty-eight dollars, .	1,368 00
Sterling,	Twelve hundred sixty dollars,	1,260 00
Sturbridge, . . .	Thirteen hundred fifty dollars,	1,350 00
Sutton,	Fifteen hundred eighty-four dollars, . .	1,584 00
Templeton, . . .	Fourteen hundred twenty-two dollars, .	1,422 00
Upton,	One thousand thirty-five dollars,	1,035 00
Uxbridge,	Seventeen hundred eighty-two dollars, .	1,782 00
Warren,	One thousand ninety-eight dollars, . . .	1,098 00
Webster,	Thirteen hundred fourteen dollars, . . .	1,314 00
West Boylston, . .	Eight hundred ninety-one dollars,	891 00
West Brookfield, .	Eight hundred fifty-five dollars,	855 00
Westborough, . . .	Twelve hundred sixty dollars,	1,260 00
Westminster, . . .	Twelve hundred six dollars,	1,206 00
Winchendon, . . .	Fifteen hundred twenty-one dollars, . .	1,521 00
Worcester,	Sixteen thousand eight hundred twelve dollars,	16,812 00
		\$88,893 00

HAMPSHIRE COUNTY.

Amherst,	Eighteen hundred sixty-three dollars, .	\$1,863 00
Belchertown, . . .	Thirteen hundred ninety-five dollars, .	1,395 00
Chesterfield, . . .	Six hundred twenty-one dollars,	621 00
Cummington, . . .	Six hundred thirty dollars,	630 00
Easthampton, . . .	Six hundred eighty-four dollars,	684 00
Enfield,	Seven hundred eleven dollars,	711 00

HAMPSHIRE COUNTY—CONTINUED.

Goshen, . . .	Two hundred ninety-seven dollars, . . .	\$297 00
Granby, . . .	Six hundred thirty-nine dollars, . . .	639 00
Greenwich, . . .	Three hundred ninety-six dollars, . . .	396 00
Hadley, . . .	Fourteen hundred twenty-two dollars, . . .	1,422 00
Hatfield, . . .	Ten hundred seventy-one dollars, . . .	1,071 00
Middlefield, . . .	Four hundred eighty-six dollars, . . .	486 00
Northampton, . . .	Thirty-nine hundred forty-two dollars, . . .	3,942 00
Norwich, . . .	Four hundred five dollars,	405 00
Pelham, . . .	Three hundred eighty-seven dollars, . . .	387 00
Plainfield, . . .	Four hundred sixty-eight dollars, . . .	468 00
Prescott, . . .	Four hundred five dollars,	405 00
South Hadley, . . .	Eleven hundred thirty-four dollars, . . .	1,134 00
Southampton, . . .	Six hundred thirty nine dollars,	639 00
Ware,	Eighteen hundred seventy-two dollars, . . .	1,872 00
Westhampton, . . .	Three hundred sixty-nine dollars,	369 00
Williamsburg, . . .	One thousand forty-four dollars,	1,044 00
Worthington, . . .	Seven hundred eleven dollars,	711 00
		\$21,591 00

HAMPDEN COUNTY.

Blandford, . . .	Eight hundred sixty-four dollars,	\$864 00
Brimfield, . . .	One thousand sixty-two dollars,	1,062 00
Chester,	Seven hundred thirty-eight dollars,	738 00
Chicopee,	Fifty-four hundred nine dollars,	5,409 00
Granville,	Six hundred fifty-seven dollars,	657 00
Holland,	Two hundred thirty-four dollars,	234 00

HAMPDEN COUNTY—CONTINUED.

Holyoke, . . .	Twenty-eight hundred ninety-eight dollars	\$2,898 00
Longmeadow, .	Twelve hundred sixty-nine dollars, . .	1,269 00
Ludlow, . . .	Seven hundred thirty-eight dollars, . .	738 00
Monson, . . .	Fourteen hundred eighty-five dollars, .	1,485 00
Montgomery, .	Two hundred sixty-one dollars, . . .	261 00
Palmer, . . .	Nineteen hundred ninety-eight dollars, .	1,998 00
Russell, . . .	Two hundred eighty-eight dollars. . .	288 00
Southwick, . .	Eight hundred thirty-seven,	837 00
Springfield, . .	Nine thousand nine hundred eighty-one dollars,	9,981 00
Tolland, . . .	Three hundred thirty-three dollars, . .	333 00
Wales,	Three hundred sixty dollars,	360 00
W. Springfield, .	Twenty-five hundred twenty dollars, .	2,520 00
Westfield, . . .	Twenty-five hundred forty-seven dollars,	2,547 00
Wilbraham, . . .	Fourteen hundred forty dollars, . . .	1,440 00
		\$35,919 00

FRANKLIN COUNTY.

Ashfield, . . .	Eight hundred sixty-four dollars, . . .	\$864 00
Bernardston, . .	Six hundred three dollars,	603 00
Buckland, . . .	Four hundred twenty-three dollars, . .	423 00
Charlemont, . .	Six hundred twelve dollars,	612 00
Colrain,	Ten hundred forty-four dollars,	1,044 00
Conway,	Eleven hundred seven dollars,	1,107 00
Deerfield, . . .	Sixteen hundred twenty-nine dollars, .	1,629 00
Erving,	Two hundred seventy dollars,	270 00
Gill,	Four hundred fifty-nine dollars, . . .	459 00
Greenfield, . . .	Seventeen hundred ten dollars,	1,710 00

FRANKLIN COUNTY—CONTINUED.

Hawley, . . .	Four hundred fifty-nine dollars, . . .	\$459 00
Heath, . . .	Four hundred thirty-two dollars, . . .	432 00
Leverett, . . .	Four hundred fifty-nine dollars, . . .	459 00
Leyden, . . .	Three hundred thirty-three dollars, . .	333 00
Munroe, . . .	One hundred eight dollars,	108 00
Montague, . .	Seven hundred fifty-six dollars, . . .	756 00
New Salem, . .	Six hundred eighty-four dollars, . . .	684 00
Northfield, . .	Eleven hundred seventy dollars, . . .	1,170 00
Orange, . . .	Eleven hundred seven dollars, . . .	1,107 00
Rowe,	Three hundred sixty dollars,	360 00
Shelburne, . . .	Seven hundred fifty-six dollars, . . .	756 00
Shutesbury, . .	Four hundred twenty-three dollars, . .	423 00
Sunderland, . .	Five hundred thirteen dollars, . . .	513 00
Warwick, . . .	Seven hundred twenty-dollars, . . .	720 00
Wendell, . . .	Six hundred thirty dollars,	630 00
Whately, . . .	Seven hundred twenty dollars, . . .	720 00
		\$18,351 00

BERKSHIRE COUNTY.

Adams,	Twenty-nine hundred seven dollars, . .	\$2,907 00
Alford,	Three hundred fifty-one dollars, . . .	351 00
Becket,	Five hundred sixty-seven dollars, . . .	567 00
Cheshire,	Eight hundred forty-six dollars, . . .	846 00
Clarksburg, . . .	One hundred sixty-two dollars,	162 00
Dalton,	Seven hundred eleven dollars,	711 00
Egremont,	Seven hundred twenty-nine dollars, . .	729 00
Florida,	Two hundred fifty-two dollars,	252 00

BERKSHIRE COUNTY—CONTINUED.

Great Barrington,	Two thousand seventy dollars, . . .	\$2,070 00
Hancock, . . .	Five hundred fifty-eight dollars, . . .	558 00
Hinsdale, . . .	Six hundred sixty-six dollars, . . .	666 00
Lanesborough, .	Eight hundred nineteen dollars, . . .	819 00
Lee,	Sixteen hundred thirty-eight dollars, .	1,638 00
Lenox,	Eight hundred fifty-five dollars, . . .	855 00
Monterey, . . .	Three hundred seventy-eight dollars, .	378 00
Mt. Washington,	One hundred sixty-two dollars, . . .	162 00
New Ashford, .	One hundred fifty-three dollars, . . .	153 00
New Marlboro', .	Eight hundred seventy-three dollars, .	873 00
Otis,	Five hundred sixty-seven dollars, . . .	567 00
Peru,	Three hundred twenty-four dollars, . .	324 00
Pittsfield, . . .	Forty-one hundred seventy-six dollars, .	4,176 00
Richmond, . . .	Five hundred ninety-four dollars, . . .	594 00
Sandisfield, . .	Eight hundred one dollars,	801 00
Sheffield, . . .	Seventeen hundred fifty-five dollars, .	1,755 00
Savoy,	Three hundred forty-two dollars, . . .	342 00
Stockbridge, . .	Eleven hundred sixty-one dollars, . . .	1,161 00
Tyringham, . . .	Four hundred five dollars,	405 00
Washington, . .	Four hundred five dollars,	405 00
W. Stockbridge,	Nine hundred twenty-seven dollars, . . .	927 00
Williamstown, .	Fifteen hundred forty-eight dollars, . .	1,548 00
Windsor,	Five hundred four dollars,	504 00
		\$28,206 00

NORFOLK COUNTY.

Bellingham, . . .	Eight hundred twenty-eight dollars, . . .	\$828 00
Braintree, . . .	Seventeen hundred nineteen dollars, . . .	1,719 00
Brookline, . . .	Seventy-four hundred seventy-nine dol- lars,	7,479 00
Canton,	Twenty hundred ninety-seven dollars, . . .	2,097 00
Cohasset,	Eleven hundred seventy-nine dollars, . . .	1,179 00
Dedham,	Forty-five hundred nine dollars,	4,509 00
Dorchester, . . .	Ninety-eight hundred fifty-five dollars, . . .	9,855 00
Dover,	Four hundred seventy-seven dollars,	477 00
Foxborough, . . .	One thousand sixty-two dollars,	1,062 00
Franklin,	One thousand forty-four dollars,	1,044 00
Medfield,	Seven hundred twenty dollars,	720 00
Medway,	Fourteen hundred eighty-five dollars, . . .	1,485 00
Milton,	Twenty-five hundred forty-seven dollars, . . .	2,547 00
Needham,	Thirteen hundred five dollars,	1,305 00
Quincy,	Thirty-three hundred sixty-six dollars, . . .	3,366 00
Randolph,	Twenty-eight hundred eight dollars,	2,808 00
Roxbury,	Nineteen thousand eight hundred thirty- six dollars,	19,836 00
Sharon,	Eight hundred seventy-three dollars,	873 00
Stoughton,	Eighteen hundred seventy-two dollars, . . .	1,872 00
Walpole,	Twelve hundred sixty-nine dollars,	1,269 00
Weymouth,	Twenty-eight hundred seventeen dollars, . . .	2,817 00
Wrentham,	Eighteen hundred dollars,	1,800 00
		\$70,947 00

BRISTOL COUNTY.

Attleborough, . . .	Eighteen hundred thirty-six dollars, . . .	\$1,836 00
Berkley,	Four hundred fifty dollars,	450 00

BRISTOL COUNTY—CONTINUED.

Dartmouth, . . .	Thirty-four hundred sixty-five dollars, .	\$3,465 00
Dighton, . . .	Eight hundred sixty-four dollars, . . .	861 00
Easton, . . .	Twelve hundred six dollars,	1,206 00
Fairhaven, . . .	Forty-seven hundred fifty-two dollars, .	4,752 00
Fall River, . . .	Ninety-three hundred fifty-one dollars, .	9,351 00
Freetown, . . .	Nine hundred nine dollars,	909 00
Mansfield, . . .	Seven hundred two dollars,	702 00
New Bedford, . .	Twenty thousand eight hundred thirty-five dollars,	20,835 00
Norton, . . .	Eleven hundred fifty-two dollars, . . .	1,152 00
Pawtucket, . . .	Sixteen hundred eleven dollars,	1,611 00
Raynham, . . .	Eight hundred twenty-eight dollars, . .	828 00
Rehoboth, . . .	Eleven hundred forty-three dollars, . .	1,143 00
Seekonk, . . .	Eleven hundred forty-three dollars, . .	1,143 00
Somerset, . . .	Seven hundred thirty-eight dollars, . .	738 00
Swansey, . . .	Eight hundred fifty-five dollars,	855 00
Taunton, . . .	Six thousand thirty-nine dollars, . . .	6,039 00
Westport, . . .	Two thousand two hundred fifty dollars,	2,250 00
		\$60,129 00

PLYMOUTH COUNTY.

Abington, . . .	Two thousand six hundred one dollars, .	\$2,601 00
Bridgewater, . .	Nineteen hundred thirty-five dollars, .	1,935 00
Carver, . . .	Five hundred eighty-five dollars, . . .	585 00
Duxbury, . . .	Seventeen hundred thirty-seven dollars,	1,737 00
E. Bridgewater,	Thirteen hundred sixty-eight dollars, .	1,368 00
Halifax, . . .	Four hundred thirty-two dollars, . . .	432 00
Hanover, . . .	Nine hundred dollars,	900 00

PLYMOUTH COUNTY—CONTINUED.

Hanson, . . .	Six hundred thirty dollars,	\$630 00
Hingham, . . .	Twenty-five hundred eighty-three dollars,	2,583 00
Hull,	One hundred eighty dollars,	180 00
Kingston, . . .	Thirteen hundred twenty-three dollars,	1,323 00
Marshfield, . .	Ten hundred fifty-three dollars, . . .	1,053 00
Middleborough, .	Twenty-seven hundred nine dollars, . .	2,709 00
N. Bridgewater,	Eighteen hundred sixty-three dollars, .	1,863 00
Pembroke, . . .	Seven hundred thirty-eight dollars, . .	738 00
Plymouth, . . .	Thirty-nine hundred thirty-three dollars,	3,933 00
Plympton, . . .	Five hundred forty-nine dollars, . . .	549 00
Rochester, . . .	Nineteen hundred eighty-nine dollars, .	1,989 00
Scituate,	Eleven hundred twenty-five dollars, . .	1,125 00
South Scituate, .	Eleven hundred eighty-eight dollars, . .	1,188 00
Wareham,	Fifteen hundred seventy-five dollars, .	1,575 00
W. Bridgewater,	Eight hundred thirty-seven dollars, . .	837 00
		<u>\$31,833 00</u>

BARNSTABLE COUNTY.

Barnstable, . . .	Twenty-five hundred thirty-eight dollars,	\$2,538 00
Brewster,	Five hundred ninety-four dollars, . . .	594 00
Chatham,	Eight hundred ninety-one dollars, . . .	891 00
Dennis,	Thirteen hundred eighty-six dollars, . .	1,386 00
Eastham,	Three hundred forty-two dollars, . . .	342 00
Falmouth,	Fifteen hundred thirty-nine dollars, . .	1,539 00
Harwich,	One thousand seventeen dollars,	1,017 00
Orleans,	Six hundred twelve dollars,	612 00
Provincetown, . .	Sixteen hundred seventy-four dollars, .	1,674 00

BARNSTABLE COUNTY—CONTINUED.

Sandwich, . . .	Twenty-two hundred fourteen dollars, . . .	\$2,214 00
Truro,	Seven hundred eleven dollars,	711 00
Wellfleet, . . .	Six hundred thirty-nine dollars,	639 00
Yarmouth, . . .	Twelve hundred forty-two dollars,	1,242 00
		\$15,399 00

DUKES COUNTY.

Chilmark, . . .	Seven hundred eleven dollars,	\$711 00
Edgartown, . . .	Eleven hundred seven dollars,	1,107 00
Tisbury,	Nine hundred forty-five dollars,	945 00
		\$2,763 00

NANTUCKET COUNTY.

Nantucket, . . .	Sixty-nine hundred seventy-five dollars,	\$6,975 00
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RECAPITULATION.

Suffolk County, . .	Three hundred two thousand five hundred twenty-six dollars,	\$302,526 00
Essex County, . .	Eighty-eight thousand five hundred sixty dollars,	88,560 00
Middlesex County, . .	One hundred twenty-seven thousand eight hundred eighty-one dollars,	127,881 00
Worcester County, . .	Eighty-eight thousand eight hundred ninety-three dollars,	88,893 00
Hampshire County, . .	Twenty-one thousand five hundred ninety-one dollars,	21,591 00
Hampden County, . .	Thirty-five thousand nine hundred nineteen dollars,	35,919 00
Franklin County, . .	Eighteen thousand three hundred fifty-one dollars,	18,351 00
Berkshire County, . .	Twenty-eight thousand two hundred six dollars,	28,206 00

RECAPITULATION—Continued.

Norfolk County, .	Seventy thousand nine hundred forty-seven dollars,	\$70,947 00
Bristol County, .	Sixty thousand one hundred twenty-nine dollars,	60,129 00
Plymouth County,	Thirty-one thousand eight hundred thirty-three dollars,	31,833 00
Barnstable County,	Fifteen thousand three hundred ninety-nine dollars,	15,399 00
Dukes County, .	Two thousand seven hundred sixty-three dollars,	2,763 00
Nantucket County,	Six thousand nine hundred seventy-five dollars,	6,975 00
		\$899,973 00

Treasurer shall issue warrants to selectmen, &c.

SECTION 2. The treasurer of this Commonwealth shall forthwith send his warrant, with a copy of this act, directed to the selectmen or assessors of each city or town taxed as aforesaid, requiring them, respectively, to assess the sum so charged, according to the provisions of the seventh chapter of the Revised Statutes; and to add the amount of such tax to the amount of town and county taxes to be assessed by them, respectively, on each city or town.

When payable.

SECTION 3. The treasurer, in his said warrant, shall require the said selectmen or assessors to pay or to issue their several warrant or warrants, requiring the treasurers of their several cities or towns to pay to said treasurer of the Commonwealth, on or before the first day of December, in the year one thousand eight hundred and fifty-seven, the sums against said cities or towns respectively in this act contained; and the selectmen or assessors respectively shall return a certificate of the names of such treasurers, with the sum which each may be required to collect, to the said treasurer of the Commonwealth, sometime before the first day of October next.

Names of treasurers to be returned.

One per cent. per month additional for delinquency.

SECTION 4. If the amount due from any city or town as provided in this act, shall not have been paid to the treasurer of the Commonwealth within the time specified, then the said treasurer shall notify the treasurer of said delinquent city or town, who shall pay into the treasury of the Commonwealth, in addition to the tax, such further sum as would be equal to one per cent. per month during such delinquency, dating on and after the first day of December next; and if the same shall remain unpaid after the first day of January next, an information may be filed by the treasurer of the

Commonwealth in the supreme judicial court, or before any justice thereof, against such delinquent city or town, and upon notice to such city or town, and a summary hearing thereon, a warrant of distress may issue against such city or town, to enforce the payment of said taxes, under such penalties as the said courts, or the justice thereof before whom the hearing is had, shall order.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 27, 1857.*]

AN ACT to incorporate the West Cambridge Horse Railroad Company. *Chap. 242*

Be it enacted, &c., as follows :

SECTION 1. Jesse P. Pattee, Chester W. Kinsley and Davis Locke, their associates and successors, are hereby made a corporation, by the name of the West Cambridge Horse Railroad Company, with power to construct, maintain and use a railway or railways, with single or double tracks, from such point or points in the town of West Cambridge, as shall be from time to time fixed by the selectmen of said town, to the line separating said town from the city of Cambridge ; and at said line to connect with the Cambridge Railroad Company, at such points as may be agreed upon by said companies, with the assent of the mayor and aldermen of the city of Cambridge.

SECTION 2. Said road shall be constructed and maintained in such manner, on such grade and with such gauge, as the selectmen shall direct: *provided*, that before the location or construction of any track in any street, the selectmen shall give fourteen days' notice to the abutters before the hearing, that they may show cause why it should not be so located or constructed ; and the selectmen may make all proper regulations, as to the speed and use of tracks ; and steam locomotive power shall not be used on said tracks. Said corporation shall maintain and keep in repair such portion of the streets as shall be occupied by their tracks, and shall be liable for any loss or injury sustained by reason of any neglect or misconduct of its agents, in the construction, management or use of said road or any part thereof ; and in case any recovery shall be had against said town by reason of such defect or use, said corporation shall be liable to pay to said town any sums thus recovered against it, with all costs and reasonable expenses incurred by the town, in defence of such suits in which such recovery shall be had ; and said corporation shall not encumber any portion of the streets not occupied by said road or tracks.

Corporators.

Name.

Power to construct.

Location.

Grade and gauge.

Proviso.

Speed and use of track.

Repairs, &c.

Rates of fare.

SECTION 3. Said corporation may fix, from time to time, such rates of compensation for transporting persons or property on their road, as they think fit, and may purchase and hold such real estate in West Cambridge as may be convenient for the purposes of said road, not exceeding ten thousand dollars in value; and said corporation shall be subject to all the duties, restrictions and liabilities, and entitled to all the rights and privileges, prescribed by the forty-fourth chapter of the Revised Statutes, and subject to all general laws, which have been or shall hereafter be passed, relative to horse railroads.

May hold real estate in West Cambridge not exceeding \$10,000.

Privileges, restrictions, &c.

Penalty for obstructing corporation.

SECTION 4. If any person shall wilfully and maliciously obstruct said corporation, in the use of their road or the passing of their cars, such person shall be punished by fine not exceeding three hundred dollars, or by imprisonment in the jail not exceeding three months; and if such corporation shall wilfully and maliciously obstruct any highway or the passing over the same, said corporation shall be punished by fine not exceeding five hundred dollars.

Penalty if corporation shall obstruct.

Capital stock \$50,000, in shares of \$50 each.

SECTION 5. The capital stock of said corporation shall not exceed fifty thousand dollars, to be divided into shares of fifty dollars each; and no shares shall be issued for a less sum, to be actually paid in on each, than the par value of the shares first issued. And said corporation shall be deemed a railroad corporation, so far as to be required to make such annual returns to the legislature as are or may be required by law, but shall not be subject to the general provisions of law relative to railroad corporations.

Corporation to make annual returns.

Act void unless, &c.

SECTION 6. This act shall be void, unless accepted by the inhabitants of West Cambridge at a legal town meeting, and unless the same shall be accepted by the corporation, and ten per cent. of the capital thereof paid in within two years from the passage hereof: and nothing herein contained shall be construed to prevent the town authorities from taking up any of the streets of the town, for the purposes for which they may now lawfully take up the same.

West Cambridge may purchase franchise, &c.

SECTION 7. The town of West Cambridge may, at any time during the continuance of the charter of said corporation, and after the expiration of ten years from the opening of any part of their road for use, purchase of said corporation all their franchise, property and rights, in paying such sum as will reimburse to each person then a stockholder therein the par value of his stock, with a net profit of ten per cent. per annum from the time of the transfer of the stock to him on the books of the corporation, deducting the dividends received by said stockholder thereon.

SECTION 8. The existence of the corporation is hereby limited to the period of fifty years from the passage hereof. [Approved May 28, 1857.] Duration.

AN ACT to regulate the use of Proxies in Banks.

Chap. 243

Be it enacted, &c., as follows :

SECTION 1. No salaried officer of any bank shall ask for, receive, or be the medium of transmission of any proxy in any bank in which he may be such officer, except for the purpose of causing the same to be recorded, as is hereinafter provided; and in case of any violation of the provisions of this section, such officer, in addition to the penalty hereinafter provided, shall be entirely disqualified from being or continuing an officer in such bank, and he shall be forthwith removed by the board of directors of such bank, or by the bank commissioners, upon notice of the same and satisfactory proofs thereof. Salaried officers shall not accept.

SECTION 2. All proxies or letters of attorney appointing an attorney or proxy to act at any meeting of any bank, shall be filled up with the date of execution of the same, and with the name of the proxy or attorney fully written in ink, and the same shall be attested by at least one witness and acknowledged before some justice of the peace, not an officer or director of the bank to which the same refers, with the true date of the acknowledgment also written therein; and the same shall, within ten days from the date of such acknowledgment, be filed with the cashier or bookkeeper of the said bank, and at least three days before the meeting referred to therein. Form of proxies, &c.

SECTION 3. Every bank shall provide a book in which a record of all proxies so filed, shall be immediately entered, giving the name of the stockholder and of the proxy or attorney therein named, with the date of the execution, acknowledgment and filing of the same, which book, together with the proxies so filed, shall at all times be open to the inspection and examination of any stockholder in said bank. And every bank shall also, at least once every six months, prepare a true list of the stockholders of the same, with the amounts of stock held by each, which list shall at all times, be open to the inspection of any stockholder therein. Record of proxies.

SECTION 4. No proxy shall be valid except for the meeting therein named, or some adjournment of the same, nor for a period of more than three months from the date thereof, except, that all proxies for stockholders, citizens of this Commonwealth who may be absent therefrom, shall be valid List of stockholders semi-annually.

if the attorney therein named shall file, three days at least before any meeting at which the same is proposed to be used, his affidavit that his principal has not, since the date of such proxy, been within this Commonwealth.

List of proxies.

SECTION 5. Within three days before any meeting of the stockholders of any bank, the directors shall prepare a list of the proxies in force for said meeting, with the names of the stockholders and of their attorneys respectively, which list shall be read at such meeting, and before proceeding to any other business.

Notices of stockholders' meetings

SECTION 6. Written or printed notices of every annual or special meeting of the stockholders of any bank, properly directed, shall be mailed by the cashier to all the stockholders of the same, at least ten days before such meeting.

Penalties.

SECTION 7. Any bank failing to comply with the provisions of this act, shall forfeit to the use of the Commonwealth, five hundred dollars for each and every offence; and any officer guilty of a breach of the same, shall be liable to a penalty not exceeding five hundred dollars. [*Approved May 28, 1857.*]

Chap. 244

AN ACT in further addition to "An Act to extend the time of the State Loan to the Norwich and Worcester Railroad Company."

Be it enacted, &c., as follows :

Treasurer to change the rate of interest.

SECTION 1. The treasurer of the Commonwealth, in issuing the scrip or certificates mentioned in the first section of the one hundred and thirty-fourth chapter of the acts of eighteen hundred and fifty-four, is hereby authorized and directed, with the concurrence of the treasurer of the Norwich and Worcester Railroad Company, to fix the rate of interest to be paid on the whole or any part of the sum of four hundred thousand dollars, mentioned in said first section, at six per centum per annum, instead of five per centum per annum, as therein provided.

Semi-annual interest.

SECTION 2. If, by virtue of the preceding section, any part of the scrip or certificates therein mentioned, shall provide for the payment of interest at the rate of six per centum per annum, in such case the amount of the semi-annual interest to be paid by the said company to the Commonwealth, under the provisions of the third section of the aforementioned act, shall be increased so that the same shall equal the semi-annual interest to be paid by the Commonwealth on the scrip or certificates, to be issued under and by virtue of the aforementioned act, and of the preceding section; and the semi-annual interest to be paid by the said company to the Commonwealth, shall be paid on or before the first days of January and July in each year.

SECTION 3. The aforementioned act, to which this act is in addition, shall in all respects have the same force and effect as though the provisions of this act had originally made part of the same. Chapter 134 of 1854 to remain in force.

SECTION 4. This act shall not take effect unless the said Norwich and Worcester Railroad Company, before the first day of July next, at a meeting of the stockholders duly notified for that purpose, shall have assented to all the provisions thereof; nor unless the same shall be approved by the legislature of the State of Connecticut before the said first day of July; and when so assented to and approved, shall thereupon take effect. [*Approved May 29, 1857.*] Act void unless, &c.

AN ACT to incorporate the Boston Art Club.

Chap. 245

Be it enacted, &c., as follows :

SECTION 1. Benjamin Champney, Samuel L. Gerry, Fred-
eric D. Williams, their associates and successors, are hereby
made a corporation by the name of the Boston Art Club, to
be located in the city of Boston, for the advancement of the
fine arts, by the establishment of a gallery for the exhibition
of paintings and sculpture, by public lectures and schools,
for drawing, painting and sculpture; with all the powers and
privileges, and subject to all the duties, restrictions and
liabilities, set forth in the forty-fourth chapter of the
Revised Statutes. Corporators.
Purpose.
Privileges, re-
strictions, &c.

SECTION 2. Said corporation, for the purposes aforesaid,
shall have authority to hold real and personal estate to an
amount not exceeding fifty thousand dollars. [*Approved
May 29, 1857.*] May hold real
and personal es-
tate not exceed-
ing \$50,000.

AN ACT to incorporate the Artisans' Insurance Company.

Chap. 246

Be it enacted, &c., as follows :

SECTION 1. Daniel Gay, Daniel Pynchon, Elam Stock-
bridge, Charles L. Shaw and William Stowe, their associates
and successors, are hereby made a corporation for the term
of twenty years from the passage of this act, by the name of
the Artisans' Insurance Company, to be located in the city of
Springfield, for the purpose of making insurance against
losses by fire; with all the powers and privileges, and subject
to all the duties, restrictions and liabilities, set forth in the
forty-fourth chapter of the Revised Statutes, and all other
general laws that are now or may hereafter be in force rela-
tive to insurance companies. Corporators.
Duration.
Location.
Purpose.
Privileges, re-
strictions, &c.

SECTION 2. The said corporation shall have a capital stock
of one hundred thousand dollars, divided into shares of one
Capital stock
\$150,000.

Shares \$100 each. hundred dollars each, with liberty to pay in and increase the same to any amount not exceeding one hundred and fifty thousand dollars, and may hold real estate for its use, not exceeding ten thousand dollars.

Real estate \$10,000.

May issue policies, whenever, &c.

Proviso.

SECTION 3. The said company may issue policies whenever fifty thousand dollars of the capital stock shall be paid in: *provided*, that no more than ten per centum of the capital paid in shall be taken on any one risk.

SECTION 4. This act shall take effect from and after its passage. [*Approved May 29, 1857.*]

Chap. 247 AN ACT to amend the sixty-sixth chapter of the Acts of eighteen hundred and fifty-five, relative to the Dissolution of Attachments.

Be it enacted, &c., as follows:

Shall be held to have been dissolved by assignment, unless, &c.

The sixty-sixth chapter of the acts of eighteen hundred and fifty-five, is hereby so amended, that in the cases named in the first section, the attachment shall be held to have been dissolved by the assignment, unless the order that the same shall continue for the benefit of the creditors, provided for in the second section of said act, shall be obtained or applied for by some person interested, on or before the day of holding the third meeting of the creditors. [*Approved May 29, 1857.*]

Chap. 248 AN ACT relating to the Inspectors of the Hospital on Rainsford Island.

Be it enacted, &c., as follows:

Inspectors to visit.

SECTION 1. One of the inspectors of the hospital on Rainsford Island shall visit said hospital once, at least, in each month.

Partial repeal.

SECTION 2. So much of the first section of the two hundred and sixty-second chapter of the acts of eighteen hundred and fifty-four, as is inconsistent with the provisions of this act, is hereby repealed.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 29, 1857.*]

Chap. 249 AN ACT in addition to an Act to protect the Property of Married Women.

Be it enacted, &c., as follows:

Separate property of a married woman shall not be subject to disposal of her husband.

SECTION 1. The property, both real and personal, which any woman, who may now be married in this Commonwealth, may now own as her sole and separate property, and the rents, issues, profits and proceeds thereof, and any real or personal property which shall hereafter come to her by descent, devise or bequest, or the gift of any person except her husband, shall remain her sole and separate property, notwithstanding

her marriage, and not be subject to the disposal of her husband, or liable for his debts.

SECTION 2. Any married woman may, while married, bargain, sell and convey her real and personal property, which may now be her sole and separate property, or which may hereafter come to her by descent, devise, bequest or gift of any person except her husband, and enter into any contract in reference to the same, in the same manner as if she were sole; but no conveyance of any real property, (except a lease for a term not exceeding one year,) and no conveyance of any shares in any corporation shall be valid, without the assent in writing, of her husband, except with the consent of one of the judges of the supreme judicial court, the superior court for the county of Suffolk, the court of common pleas, or the judge of probate, to be granted, on her petition, in any county, on account of the sickness, insanity, or absence from the Commonwealth of her husband, or other good cause: (*provided*, that no conveyance made upon petition as aforesaid, shall, or shall be construed to destroy, impair, or convey the husband's estate by curtesy—) and her husband, if within the Commonwealth, shall have such notice of the petition as the judge or court may order. This petition may be presented to, and determined by, any such judge in vacation as well as in term time.

Married woman may sell and convey her property, with consent of husband.

Proviso.

SECTION 3. Any married woman may, while married, sue and be sued in all matters having relation to her property, which may now be her sole and separate property, or which may hereafter come to her by descent, devise, bequest or the gift of any person except her husband, in the same manner as if she were sole.

May sue and be sued.

SECTION 4. Any married woman may, while married, make a will, devising or bequeathing property which may now be, or may hereafter become her sole and separate property, under the provisions of this act, and the act to which it is in addition; but such will shall not deprive her husband of his rights as tenant by the curtesy, and she shall not bequeath away from him more than one-half of her personal property, without his consent in writing.

May make a will.

SECTION 5. Nothing in this act contained shall invalidate any marriage settlement, or contract now made, or to be hereafter made, or authorize any husband to convey property to his wife, in any cases, where he has not now such authority by law.

Act not to invalidate marriage settlement.

SECTION 6. No bargain or contract made by any married woman, in respect to her sole and separate property or any property which may hereafter come to her by descent, devise,

Husband not to be liable for any bargain or contract of his wife, &c.

bequest, or gift of any person except her husband, and no bargain or contract made or entered into by any married woman in or about the carrying on of any trade or business, under the statutes of this Commonwealth, shall be binding upon her husband, or render him or his property in any way liable therefor. [*Approved May 29, 1857.*]

Chap. 250

AN ACT to incorporate the Somerville Horse Railroad Company.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. George O. Brastow, Henry A. Snow, Isaac F. Shepard, their associates and successors, are hereby made a corporation by the name of the Somerville Horse Railroad Company, with power, upon agreement with the Middlesex Railroad Company, to receive a transfer of all the rights, powers, privileges and franchises conferred, and to assume all the burdens, duties and liabilities, imposed upon the said Middlesex Railroad Company by its act of incorporation, being the four hundred and thirty-fourth chapter of the acts of eighteen hundred and fifty-four, and of acts in addition thereto, so far as the same relate to proceedings within the limits of the town of Somerville. And whenever the said Middlesex Railroad Company and the said Somerville Horse Railroad Company shall, by contracts in writing, agree to the transfer and substitution hereinafter named and the terms and conditions thereof, then the powers, privileges, franchises and rights and the duties, liabilities and burdens conferred and imposed upon the Middlesex Railroad Company by the acts aforesaid, so far as they relate to proceedings in the town of Somerville, shall be and the same hereby are transferred from the said Middlesex Railroad Company and conferred and imposed upon the said Somerville Horse Railroad Company : and all the terms, provisions and conditions of the said four hundred and thirty-fourth chapter of the acts of eighteen hundred and fifty-four, and the acts in addition thereto, are hereby, so far as they relate to proceedings within the limits of the town of Somerville, made a part of this act, and shall be binding upon and inure to the benefit of the said Somerville Horse Railroad Company ; and like privileges, powers and rights with those conferred by said acts upon said Middlesex Railroad Company, shall be held and enjoyed by said Somerville Horse Railroad Company, and the said Somerville Horse Railroad Company shall be substituted for, and be in the place of, the said Middlesex Railroad Company so far as relates to the provisions of said act and to proceedings within the limits of the town of Somerville.

May receive
transfers of the
franchise, &c., of
the Middlesex
Railroad Compa-
ny.

Privileges, re-
strictions, &c.

SECTION 2. The capital stock of the Somerville Horse Railroad Company shall not exceed one hundred thousand dollars, to be divided into shares of fifty dollars each, and no shares shall be issued for a less sum than the par value of the shares which shall be first issued: and said company may fix rates of fare and carriage as they may deem expedient, from time to time, not exceeding five cents for each passenger. [*Approved May 29, 1857.*]

Capital stock not to exceed \$100,000, in shares of \$50 each.

Rates of fare.

AN ACT to incorporate the Hide and Leather Bank, in Boston.

Chap. 251

Be it enacted, &c., as follows :

SECTION 1. John Field, Frederic Jones, William Clafin, their associates and successors, are hereby made a corporation by the name of the President, Directors and Company of the Hide and Leather Bank, to be established in Boston, and shall continue until the first day of October, in the year one thousand eight hundred and seventy-seven; and shall be entitled to all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the public statutes of this Commonwealth relative to banks and banking.

Corporators.

Duration.

Privileges, restrictions, &c.

SECTION 2. The capital stock of said bank shall consist of one million dollars, to be divided into shares of one hundred dollars each, to be paid in such installments and at such times as the stockholders may direct: *provided*, that the whole be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Capital stock \$1,000,000, in shares of \$100 each.

Proviso.

SECTION 3. The stock of said bank shall be transferable only at its banking house and on its books.

Transfer of stock.

SECTION 4. The said corporation shall be subject to all the liabilities, requirements and restrictions, contained in such acts as may hereafter be passed by the general court in relation to banks and banking.

Privileges, restrictions, &c.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 29, 1857.*]

AN ACT to extend the time for the construction of the East Walpole Branch Railroad.

Chap. 252

Be it enacted, &c., as follows :

SECTION 1. The time allowed to the East Walpole Branch Railroad Company to locate and construct its railroad, is hereby extended two years beyond the time now fixed by law.

Time for construction extended two years.

SECTION 2. This act shall take effect from and after its passage. [*Approved May 29, 1857.*]

Chap. 253 AN ACT to prevent Obstructions in the Ferry-way between New Bedford and Fairhaven.

Be it enacted, &c., as follows :

Vessels shall not anchor within the track of the ferry.

SECTION 1. No master or owner of any vessel, and no pilot, or other person, having charge or control of any vessel arriving at, or being within, the inner harbor of New Bedford or of Fairhaven, in the county of Bristol, shall anchor the same, or cause or permit the same to be anchored, or to lay at anchor, within said inner harbors, so that the said vessels shall be within the usual track or line of the ferry established by the proprietors of the New Bedford and Fairhaven Ferry, and now supported by the Fairhaven Branch Railroad Company.

Obstructions.

SECTION 2. No person shall wilfully place any obstruction, or cause or permit the same to be placed, in or upon the usual track or line of the said ferry, so as to impede or hinder the free passage of the boats established or used by said railroad company, pursuant to the provisions of an act of the legislature of the Commonwealth of Massachusetts, passed on the twenty-fourth day of March, in the year one thousand eight hundred and fifty-four.

Penalty for offending.

SECTION 3. Every person offending against the provisions of this act shall be deemed guilty of a misdemeanor, and shall be liable to prosecution therefor, by indictment or information, in any court of competent jurisdiction, and on conviction shall be punished by fine not exceeding one hundred dollars for each offence, with the costs of prosecution.

SECTION 4. This act shall take effect from and after the first day of July, eighteen hundred and fifty-seven. [*Approved May 29, 1857.*]

Chap. 254 AN ACT to repeal chapter one hundred and fifty-three, of the Acts of eighteen hundred and fifty-three.

Be it enacted, &c., as follows :

Repeal of act concerning school districts.

The one hundred and fifty-third chapter of the acts of one thousand eight hundred and fifty-three, entitled, "An Act in addition to the Acts concerning School Districts," is hereby repealed. [*Approved May 30, 1857.*]

Chap. 255

AN ACT in relation to the trial of Libels for Divorce.

Be it enacted, &c., as follows :

Either party may demand a trial by jury.

SECTION 1. Either party to any libel for divorce now pending, or that may be hereafter commenced, may, at any time before the trial thereof is actually commenced, demand in writing a trial by jury, which demand shall be filed with

the clerk of the court wherein the libel is pending: *pro-^{Provido.}vided, however,* that no such demand shall be made at any term of the court at which juries shall be in attendance after the dismissal of said juries.

SECTION 2. The first section of the fifty-sixth chapter of ^{Partial repeal.} the laws passed in the year eighteen hundred and fifty-five, is hereby repealed. [*Approved May 30, 1857.*]

AN ACT to incorporate the Dorchester and Roxbury Railroad Company. *Chap. 256*
Be it enacted, &c., as follows :

SECTION 1. William D. Swan, Charles C. Holbrook and ^{Corporators.} William Hendry, their associates and successors, are hereby made a corporation by the name and title of the Dorchester and Roxbury Railroad Company, with power to construct, ^{Power to construct.} maintain and use a railway or railways, with convenient single or double tracks, from a point on Meeting-house Hill, in the ^{Location.} town of Dorchester, upon and over Hancock and Stoughton Streets, so called, in said town of Dorchester, to the line separating said town from the city of Roxbury; and also from a point near the Town House in said Dorchester, upon and over Washington Street, so called, in said town, to the line separating said town from the city of Roxbury, and at said line ^{Connection with the Metropolitan R. R. Co.} to connect with the Metropolitan Railroad Company, at such points as may be agreed upon in writing between the two said railroad companies, and assented to by a vote of the mayor and aldermen of said city of Roxbury: *provid*^{Provido.}*ed,* that all tracks of said railroads shall be laid at such distances from the sidewalks in said town as the selectmen thereof shall, by their votes, determine to be for the public safety and convenience: *provid*^{Provided, further}*ed, further,* that before the location or construction of any track in any street, the selectmen of said town shall give notice to the abutters thereon, fourteen days at least before the hearing, that they may show cause, if any there be, why said track shall not be so located and constructed; and said corporation shall have power to fix, from ^{Rates of fare.} time to time, such rates of compensation for transporting persons or property thereon, as they may think expedient, and be subject to all the duties, restrictions and liabilities, and entitled to all the rights and privileges, prescribed by the forty-fourth chapter of the Revised Statutes: *provid*^{Provided, however.}*ed, however,* that nothing herein contained shall be so construed as to authorize the construction of any part of the railway hereby authorized, within the limits of the city of Roxbury.

SECTION 2. Said tracks or roads shall be operated and ^{Horse-power, only.} used by said corporation with horse-power only, and it shall

not connect its track with any other railroad on which other power is used. The selectmen of said town shall have power, at all times, to make all such regulations, as to the rate of speed and mode of use of said tracks, as the public convenience and safety may require.

Repairs, &c.

SECTION 3. Said corporation shall maintain and keep in repair such portion of the streets, respectively, as shall be occupied by their tracks, and shall be liable for any loss or injury that any person may sustain, by reason of any carelessness, neglect or misconduct of its agents and servants, in the management, construction or use of said tracks or roads; and in case any recovery shall be had against said town by reason of such defect, want of repair or use, said corporation shall be liable to pay to said town any sums thus recovered against it, together with all cost, and reasonable expenditures incurred by said town, in the defence of any such suit or suits in which such recovery shall be had; and said corporation shall not encumber any portion of the streets not occupied by the said road or tracks. And the liability which said corporation may incur either to any individual, or to said town, under the provisions of this section, together with the costs and reasonable expenditures attendant thereto, shall constitute a lien upon the franchise and railroad track of said company until the same shall have been paid by said company; and said lien shall not be defeated or impaired by any lease or conveyance of, or contract concerning said franchise or railroad track made by said company; and any lease, conveyance of, or contract concerning said franchise or railroad track, shall be subject to the said lien for said liability, notwithstanding the suit therefor may be brought after the execution of such lease, conveyance, or contract: *provided*, the cause of action shall have arisen prior to the execution of such lease, conveyance or contract.

Lien upon the franchise, &c.

Proviso.

Penalty for obstructing corporation.

SECTION 4. If any person shall wilfully and maliciously obstruct said corporation in the use of said road or tracks, or the passing of the cars or carriages of said corporation thereon, such persons, and all who shall be aiding or abetting therein, shall be punished by a fine not exceeding five hundred dollars, or may be imprisoned in the common jail for a period not exceeding three months. If said corporation, or its agents or servants, shall wilfully and maliciously obstruct any highway, or the passing of any carriages over the same, such corporation shall be punished by a fine not exceeding five hundred dollars.

Penalty if corporation shall obstruct.

Capital stock \$100,000 in shares of \$50 each.

SECTION 5. The capital stock of said corporation shall not exceed the sum of one hundred thousand dollars, to be

divided into shares of fifty dollars each; and no shares shall be issued for a less sum, to be actually paid in on each, than the par value of the shares which shall first be issued.

SECTION 6. Said corporation shall have power to purchase and hold such real estate within said town as may be necessary or convenient for the purposes and management of said road.

May purchase necessary real estate.

SECTION 7. The town of Dorchester may, at any time during the continuance of the charter of said corporation, and after the expiration of ten years from the opening of any part of said road for use, purchase of said corporation all the franchise, property, rights and furniture of said corporation, by paying them therefor such a sum as will reimburse to each person who may then be a stockholder therein, the par value of his stock, together with a net profit of ten per cent. per annum from the time of the transfer of said stock to him on the books of the corporation, deducting the dividends received by said stockholder thereon.

Town of Dorchester may purchase franchise, &c.

SECTION 8. The said road shall be constructed and maintained in such form and manner, and upon such grade, and with such gauge as the selectmen of said town may, in their votes fixing and determining the position thereof in said streets, as aforesaid, prescribe and direct; and whenever, in the judgment of said railroad corporation, it shall be necessary to alter the grade of any street so occupied by it, such alteration may be made at the sole expense of said corporation: *provided*, the same shall be assented to by the selectmen of said town.

Grade and gauge.

Proviso.

SECTION 9. Nothing in this act shall be construed to prevent the town authorities of said town from taking up any of the public streets traversed by the said railroad, for the purposes for which they may lawfully take up the same.

Act not to prevent authorities, &c.

SECTION 10. This act shall be void so far as relates to the right to construct said road in said town, unless the same shall be accepted by the selectmen thereof, and unless the same shall be accepted by said corporation, and ten per cent. of the capital thereof paid in, within two years from the passage of this act.

Act void, unless, &c.

SECTION 11. The said corporation shall be deemed a railroad corporation so far as to be subject to make such annual returns to the legislature as are or may be prescribed by law, but not to the other general provisions of law in relation to railroad corporations.

Returns.

SECTION 12. The existence of said corporation is hereby limited to the period of fifty years from the passage hereof.

Duration.

Act not to go in-
to effect provid-
ed, &c.

SECTION 13. This act shall not go into effect, provided, the Dorchester Avenue Railroad shall, within one year, construct a railroad from said avenue to Upham's Corner, so called, in Dorchester; but shall thereupon be void. [*Approved May 30, 1857.*]

Chap. 257 AN ACT authorizing the Hancock Free Bridge Corporation to surrender the West Boston and Canal Bridges to the City of Cambridge.

Be it enacted, &c., as follows :

Hancock Free
Bridge Corpora-
tion shall pay
\$100,000 to city
of Cambridge,
whenever, &c.

SECTION 1. Whenever the Hancock Free Bridge Corporation shall have received, from tolls, under the authority of the act of eighteen hundred and forty-six, chapter one hundred and forty-six, and the acts in addition thereto, the sum of one hundred thousand dollars, over and above all the sums expended or to be expended by said corporation in rebuilding, repairing and maintaining the two bridges over Charles River between Boston and Cambridge, and upon the roads leading to said bridges, and upon the road leading from Cambridge to Watertown, or for other purposes under the authority of said acts, or any of them, or of this act, the said corporation is hereby authorized to transfer and pay over the said sum of one hundred thousand dollars to the city of Cambridge: *provided*, said city shall determine to accept this act, and shall give the bond hereinafter prescribed.

Provide.

City to assume
the control, &c.

SECTION 2. The city of Cambridge is hereby authorized, upon the terms and conditions in this act contained, to assume the exclusive ownership, and control and charge of the bridges named in the first section of this act.

City shall give
bond.

SECTION 3. If the city of Cambridge shall determine to assume the ownership, control and charge of said bridges, said city shall give its bond, executed by the mayor of said city, in its name and behalf, to the Commonwealth, the form and substance thereof to be approved by the attorney-general, with condition that said city shall maintain said bridges as free public avenues forever; and perform all the duties in relation to said bridges forever, that said Hancock Free Bridge Corporation is by law bound to perform while said bridges are held by said corporation.

City to receive
\$100,000 upon
giving bond.

SECTION 4. Upon the giving of the bond prescribed in the preceding section, the said city is hereby authorized to receive from said Hancock Free Bridge Corporation the said sum of one hundred thousand dollars; and upon the payment of that sum to said city, by said corporation, the said sum and said bridges shall be deemed, and are hereby declared to be, the sole and absolute property of said city.

SECTION 5. If said Hancock Free Bridge Corporation shall neglect, for the period of ten days after having obtained said sum of one hundred thousand dollars, as set forth in the first section of this act, and after being notified that said bond has been given to the Commonwealth, to pay over to said city the said sum of one hundred thousand dollars, the said bond shall be returned to said city.

Bond shall be returned to city, if, &c.

SECTION 6. The bonds of the Cambridge Railroad Company, which the Hancock Free Bridge Corporation were, by act of February twenty-first, eighteen hundred and fifty-five, section nine, required to receive in satisfaction of compensation or tolls, shall be transferred by said Hancock Free Bridge Corporation to said city of Cambridge, and received by said city as part of said sum of one hundred thousand dollars; said bonds to be taken, in estimating the value of the same, at their par value, with all interest that shall remain unpaid on the same, computed to the day of transfer.

Transfer of bonds

SECTION 7. After the city of Cambridge shall have assumed said bridges, said city shall be liable for damages that may be incurred by reason of any defect in said bridges, or either of them, in the same manner and to the same extent as towns and cities are now liable for defects in town ways.

City liable, &c.

SECTION 8. The management and control of said fund of one hundred thousand dollars shall be exercised by the city council of the city of Cambridge.

City council to manage and control fund.

SECTION 9. By the term "bridges," as used in the preceding sections of this act, is intended the structures extending across said Charles River, between Boston and Cambridge, and so much of the ways leading to the same, as lie between the eastern termini of the ways belonging to the city of Cambridge, and the western termini of ways belonging to the city of Boston.

"Bridges,"—term defined.

SECTION 10. The city council of the city of Cambridge is hereby authorized to lay out, as a public highway, so much of the turnpike road established by the act of June twelfth, eighteen hundred and twenty-four, entitled, "An Act to authorize the proprietors of West Boston Bridge to establish a turnpike road from Cambridge to Watertown," within the limits of said city, as crosses navigable waters; and the said city is hereby authorized and required to maintain the same, with the bridge and draw thereof, in the same manner as other highways within said city.

City to lay out a highway.

SECTION 11. This act shall be of no effect unless the inhabitants of said city of Cambridge, qualified to vote in city affairs, shall accept the same at meetings held in the

Act void, unless accepted by Cambridge.

various wards of said city, in the months of June or July, in the year eighteen hundred and fifty-seven; said meetings to be called by the mayor and aldermen, and warned at least seven days before the day when said meetings are to be held. And in case it shall be accepted, it shall be the duty of the mayor of Cambridge to notify the governor thereof, in writing, immediately.

Watertown to receive \$5,500.

Proviso.

Corporation exempted from maintaining.

SECTION 12. The Hancock Free Bridge Corporation, in consideration of the passage of this act, is hereby authorized and required to pay out of its funds accruing from tolls, to the town of Watertown, the sum of five thousand five hundred dollars: *provided*, the said town shall vote to accept the same at a legal town meeting to be held within thirty days after this act shall have been accepted by the city of Cambridge: and upon the payment of said sum, or if said town shall refuse or neglect for the time aforesaid, to vote to accept said sum, the Hancock Free Bridge Corporation shall be exempted from all obligation to maintain so much of the turnpike road established under the act of June twelfth, eighteen hundred and twenty-four, entitled, "An Act to authorize the proprietors of West Boston Bridge to establish a turnpike road from Cambridge to Watertown," as lies within the limits of Watertown, including the bridges and the draws thereof; and said town is authorized to maintain so much of said bridges and the draws thereof lying within the limits of said town, as cross navigable waters.

Brighton to receive \$6,500.

Proviso.

Corporation exempted from maintaining.

SECTION 13. The Hancock Free Bridge Corporation, in consideration of the passage of this act, is hereby authorized and required to pay out of its funds accruing from tolls, to the town of Brighton, the sum of six thousand five hundred dollars: *provided*, the said town shall vote to accept the same, at a legal town meeting to be held within thirty days after this act shall have been accepted by the city of Cambridge; and upon the payment of said sum, or if said town shall refuse or neglect, for the time aforesaid, to vote to accept said sum, the Hancock Free Bridge Corporation shall be exempted from all obligation to maintain so much of the turnpike road established under the act of June twelfth, eighteen hundred and twenty-four, entitled, "An Act to authorize the proprietors of West Boston Bridge to establish a turnpike road from Cambridge to Watertown," as lies within the limits of Brighton, including the bridges and draws thereof; and said town is authorized to maintain so much of said bridges and the draws thereof, lying within the limits of said town, as cross navigable waters. [*Approved May 30, 1857.*]

AN ACT relating to Imprisonment on Execution.

Chap. 258

Be it enacted, &c., as follows :

SECTION 1. In all cases of imprisonment on execution, the debtor may be discharged in the manner provided in the act passed May thirteenth, in the year eighteen hundred and fifty-seven, entitled "An Act to amend and consolidate the several Acts concerning Imprisonment for Debt and the Punishment of Fraudulent Debtors," for the relief and discharge of persons arrested on execution, under the provisions of said act. Debtor may be discharged.

SECTION 2. This act shall take effect on and after the twelfth day of June, in the year eighteen hundred and fifty-seven. [*Approved May 30, 1857.*] When to take effect.

AN ACT in addition to an Act concerning Insurance Companies.

Chap. 259

Be it enacted, &c., as follows :

SECTION 1. Any agent making insurance in violation of any law of this Commonwealth regulating insurance companies, shall forfeit for each offence a sum not exceeding one thousand dollars. And the governor and council may allow such reasonable compensation for services rendered, and expenses incurred, in enforcing the laws relating to insurance companies, as they shall deem proper. Penalty for violating insurance laws.

SECTION 2. The fifty-fourth section of the two hundred and fifty-second chapter of the acts passed in the year eighteen hundred and fifty-six, is hereby repealed. [*Approved May 30, 1857.*] Partial repeal.

AN ACT to provide for the approval of Bills of purchases for the State Prison. Chap. 260*Be it enacted, &c., as follows :*

All bills contracted by the warden, for purchases on account of the prison, shall be approved by one or more of the inspectors, before payment. [*Approved May 30, 1857.*] Inspectors shall approve bills.

AN ACT relating to applications to the General Court.

Chap. 261

Be it enacted, &c., as follows :

SECTION 1. Any person or persons intending to present to the general court any petition which affects the rights and interests of individuals, or of private corporations, shall give notice thereof, by publishing a true copy of the petition four weeks successively, in some newspaper printed in the counties where such individuals reside, or in which such corporations are established; and also in some newspaper or newspapers published in the city of Boston, to be designated Petitions affecting private rights shall be published.

by the petitioners in each case, and approved by the secretary of the Commonwealth, the last of said publications to be at least fourteen days before such session of the general court.

Petitions affecting town rights.

SECTION 2. Any person or persons intending to present any petition, as mentioned in the preceding section, and which affects the rights and interests of any town, shall give notice thereof, in the manner provided in the first section of this act, the last publication to be at least fourteen days before the second Monday of November next preceding the session of the general court, to which the petition is to be presented; and also by serving such town with a true copy of the petition, fourteen days at least before the second Monday of November aforesaid; said service to be made by any person not a party to, nor interested in, said petition.

Applications of corporations.

SECTION 3. All persons intending to apply to the general court for an act of incorporation, and every corporation intending to apply for an alteration, amendment, or extension of its charter, shall give notice of such intended application, by an advertisement, to be published for at least four weeks immediately before the session at which said application is to be made, in some newspaper printed in the county where such corporation is intended to be, or shall have been established; and also in some one or more newspapers printed in the city of Boston, to be designated as provided in the first section of this act.

Amount of capital, &c.

SECTION 4. If the application be for an act of incorporation, the notice shall specify the amount of the capital stock requisite to carry the objects of such incorporation into effect; and if the application be for an alteration in any charter already granted, the notice shall state, specifically, the alteration intended to be applied for.

Proof of publication.

SECTION 5. Proof of the publications provided for in the preceding sections, and of the service required in the second section of this act, may be made by the affidavit of any printer or publisher of the newspaper in which such publication shall be made, and of the person making such service, respectively; which affidavits, and the petitions to which they relate, shall be presented to the general court during the first ten days of the session.

Partial repeal.

SECTION 6. The seventh, eighth and ninth sections of chapter second, title first, part first, of the Revised Statutes, relating to applications to the general court, are hereby repealed. [*Approved May 30, 1857.*]

AN ACT to authorize the Commissioners of the County of Bristol to Borrow Money. *Chap. 262*

Be it enacted, &c., as follows :

SECTION 1. The county commissioners of the county of Bristol are hereby authorized and empowered to borrow, on the credit of said county, in addition to the amount of debt they are now authorized to contract, a sum not exceeding ten thousand dollars, the same to be expended by the said commissioners, or their successors in office, in repairing and enlarging the present house of correction in said county. Commissioners may borrow \$10,000.

SECTION 2. The two hundred and nineteenth chapter of the acts of the year one thousand eight hundred and fifty-five, and the two hundred and ninety-first chapter of the acts of the year one thousand eight hundred and fifty-six, are hereby repealed. Acts repealed. [*Approved May 30, 1857.*]

AN ACT concerning the Danvers Railroad Company, and the Boston and Maine Railroad. *Chap. 263*

Be it enacted, &c., as follows :

SECTION 1. The Boston and Maine Railroad is hereby required to run, between the terminus of the Danvers Railroad in Danvers, and Boston, passenger and freight trains sufficient and so as best to accommodate the public, and the business along the line of the Danvers Railroad, and the passengers, merchandise and cars to and from the Newburyport and Salem and Lowell Railroads, which it is hereby required to draw on said trains, between the points of the intersection of the Danvers Railroad with said railroads, and Boston; and shall furnish one merchandise and three passenger trains at least, each way, daily, Sundays excepted,—two of which passenger trains shall be independent and express trains, between South Reading and Boston. Boston and Maine railroad required to run certain trains.

SECTION 2. If the Danvers and Newburyport Railroad Companies, and the Boston and Maine Railroad shall not agree upon the number of trains to be run daily between the said terminus in Danvers, and Boston, in addition to those required by the first section of this act, or upon the times of starting, rates of speed, fare, freight, or any matter respecting the running of any of the trains, or upon the terms of connection with the Newburyport Railroad Company, or with the Salem and Lowell Railroad Company, including the compensation to the Boston and Maine Railroad, for drawing the passengers, merchandise and cars of the Newburyport Railroad Company, and of the Salem and Lowell Railroad Company,—then, three disinterested persons, not residents of the county of Essex, shall be appointed by the supreme Agreement upon the number of trains. Referees.

judicial court, upon the application of either party interested, and upon reasonable notice to the parties, who shall decide and determine the same; and their determination shall be binding and conclusive in the premises, until by the agreement of the parties, or upon a like application and notice, the same shall be changed.

Act not to give validity to alleged contract, &c.

SECTION 3. Nothing herein contained shall be construed to sanction, or give validity to the alleged contract, between the Boston and Maine Railroad and the Eastern Railroad Company, dated July fourteenth, one thousand eight hundred and fifty-five; nor to affect the rights of the said Danvers Railroad Company under its lease to the Boston and Maine Railroad, dated March first, one thousand eight hundred and fifty-five, or the validity of the agreement made by the Newburyport Railroad Company, dated May twenty-seventh, one thousand eight hundred and fifty-three,—nor to deprive the Danvers Railroad Company of a fair compensation and remuneration for all business done upon its road. [*Approved May 30, 1857.*]

Chap. 264

AN ACT concerning the Police Court of the Town of Milford.

Be it enacted, &c., as follows :

Appointment of clerk.

SECTION 1. The governor, with the advice and consent of the council, shall nominate and appoint a clerk of the police court of the town of Milford, who shall hold his office for the term of five years, unless sooner removed by the governor and council; and in case of absence or death, or other disability of said clerk, the justice of said court may appoint a clerk, *pro tempore*, who shall officiate as such until the standing clerk shall resume the performance of his duties, or until another clerk shall be appointed by the governor and council.

Clerk shall give bond.

SECTION 2. The clerk shall be sworn to the faithful performance of his duties, and give bond to the treasurer of the county of Worcester, in the sum of three thousand dollars, with surety or sureties to the acceptance of said treasurer, with the condition for the faithful performance of the duties of said office.

Records.

SECTION 3. The clerk shall attend all sessions of said court, whether for the transaction of civil or criminal business, and shall keep a record of all the proceedings of said court. And the records of proceedings in civil cases shall be kept in a different book and separate from the record of proceedings in matters of a criminal nature.

Shall not act as counsel.

SECTION 4. The clerk shall not be retained or employed as counsel or attorney, in any suit, complaint, or other pro-

ceedings whatever, before said court, nor in any which shall have been heard, tried, or examined therein.

SECTION 5. The clerk shall make out all warrants, writs, and processes, which shall be ordered by said court, and tax all bills of costs, receive all fines and forfeitures, and fees awarded and payable in said court, and all fees for blanks, and for copies, in civil and criminal suits. Duties.

SECTION 6. All fees and charges, both in civil and criminal proceedings, and all fines and forfeitures, and all costs in criminal proceedings, now by law received by or payable to the standing justice, shall be received by said clerk, and by him accounted for to said treasurer annually, and he shall forthwith pay over the amount due to said treasurer, after paying over and retaining the fines and fees as hereinafter provided. Fees.

SECTION 7. Said clerk shall pay over, quarterly, to the standing justice, to be retained by him in full compensation for all services, which by law he is required to perform, the fees received in civil actions and criminal prosecutions, which now, by law, accrue to the standing justice: *provided*, that the amount so paid over to the standing justice, for his services in criminal prosecutions, shall not exceed the sum which the standing justice is now, by law, entitled to retain for the same services. And said clerk shall pay over to the special justice of said court, the fees in civil actions and criminal prosecutions, which now legally accrue to the special justice, as and for the full compensation of the special justice for all services which by law he is required to perform. And out of the balance of fees in civil actions and criminal prosecutions, remaining after paying over as aforesaid, the clerk shall retain in full compensation for all his services as clerk, the sum of three hundred dollars annually. And in case the balance of fees aforesaid does not amount to three hundred dollars, the clerk shall retain out of the fines and forfeitures by him received, such sum as shall be required to make up the deficiency. And in case there should be no fees remaining after paying over as aforesaid, the clerk shall retain in full for his said compensation, out of the fines and forfeitures by him received, the said sum of three hundred dollars. Compensation of justice.

SECTION 8. All writs and processes issuing from said court, shall bear test of the standing justice, or in case of the absence, death, or other disability, of the standing justice, then of the special justice, and shall be signed by said clerk. Writs, &c.

SECTION 9. This act shall take effect from and after its passage. [*Approved May 30, 1857.*]

Chap. 265

AN ACT concerning the Police Court, in Lowell.

*Be it enacted, &c., as follows :*Special justice
may act as stand-
ing justice.

SECTION 1. Whenever the standing justice of the police court of Lowell shall request either of the special justices of said court to aid him in performing the duties of his office, said special justice is hereby authorized to hold a court for the trial of any civil or criminal matter which may be pending in said court, with all the powers of said standing justice; and he shall be paid therefor, by said standing justice, out of the allowance granted him by law, the same fees as justices of the peace receive in like cases.

Clerk.

SECTION 2. Said standing justice may retain, in addition to the amount now allowed by law, the further sum of eight hundred dollars, for the support of a clerk of said court, duly appointed and actually employed, or such part of said sum as may be received by said standing justice as now provided by law.

Terms.

SECTION 3. The civil terms of said court shall hereafter be holden on the first and third Mondays of each month.

Inconsistent acts
repealed.

SECTION 4. All acts and parts of acts, inconsistent with this act, are hereby repealed. [*Approved May 30, 1857.*]

Chap. 266

AN ACT concerning Vacancies in School-Committees.

*Be it enacted, &c., as follows :*Manner of filling
vacancies.

SECTION 1. Whenever any member or members of the school-committee of any city or town shall decline further service, or from change of residence or otherwise, shall become unable to attend to the duties of said board, the remaining members thereof shall, in writing, give notice of the fact to the selectmen of the town, or to the mayor and aldermen, if it be a city; the two boards shall, then, after giving public notice of at least one week, proceed, by joint ballot, to fill such vacancy or vacancies; and a majority of the ballots of all persons entitled to vote shall be held to be necessary to a choice at such election.

Election of new
board.

SECTION 2. The same proceedings as above prescribed shall be had in case of a vacancy caused by the refusal of any person, elected as member of any school-committee, to accept said office, after having been notified of such election according to the two hundred and eighty-third chapter of the acts of eighteen hundred and fifty-three; and in case all the persons elected as members of the school-committee, shall, after such due notice, decline accepting said office, or having accepted thereof, shall afterwards decline further service, the selectmen, or the mayor and aldermen shall, after

giving due public notice, proceed, by ballot, to elect a new board; and the votes of a majority of the entire board of selectmen, or of mayor and aldermen, shall be necessary to an election.

SECTION 3. Any person elected in accordance with the provisions of this act, shall have the same powers and duties as if he had been chosen a member of the school-committee in any other legal manner: *provided, however,* that in all cases the term of service of such member shall end with the municipal or official year in which he may be chosen; and if the vacancy was in the first instance for a longer period, it shall at the first annual election after the occurrence of said vacancy, be filled in the manner prescribed for original elections to the school-committee.

Powers and duties.

Proviso.

SECTION 4. Chapter one hundred and forty-four of the acts of eighteen hundred and forty-nine; chapter three hundred and nine of the acts of eighteen hundred and fifty-one; chapter one hundred and one of the acts of eighteen hundred and fifty-six, and all acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

Acts repealed.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 30, 1857.*]

AN ACT respecting Trials by the Court.

Chap. 267

Be it enacted, &c., as follows:

SECTION 1. In all civil actions, trial by jury may be waived, by the consent in writing of the several parties, or their counsel, filed with the clerk at any time before the trial, and the cause shall thereupon be heard and determined by the court, and judgment shall be entered as in case of verdict by a jury.

Jury trial may be waived.

SECTION 2. Either party may file exceptions to the decisions and rulings of the court upon all matters of law, arising upon such trial, and move for a new trial, for mistake of law or for newly discovered evidence, and be entitled to review in the same manner and with the same effect as upon trial by jury.

New trial.

SECTION 3. The court shall make such rules for the conduct of trials by the court, as they may respectively find necessary. [*Approved May 30, 1857.*]

Rules.

AN ACT to provide for the maintenance of the Essex Bridge.

Chap. 268

Be it enacted, &c., as follows:

SECTION 1. The treasurer and receiver-general, in the name, and to the use of this Commonwealth, is hereby authorized to accept the bridge and franchise now owned by

Treasurer of Commonwealth to accept bridge and franchise.

the proprietors of Essex Bridge, but which on the twenty-fourth day of September, which shall be in the year one thousand eight hundred and fifty-eight, is, by the act of incorporation of said proprietors, to be delivered up in good repair to and for the use of this government, and by a proper instrument to be authenticated by the seal of the Commonwealth, to release said corporation from all further liability for the maintenance of said bridge: *provided*, that said bridge at the time of its delivery shall be in good repair, according to the true intent and meaning of said act, and shall be so certified by the mayor and aldermen of the city of Salem and the selectmen of the town of Beverly, or a majority thereof. And if at the expiration of the period limited as aforesaid, the said bridge shall not be delivered up in good repair, as aforesaid, and a satisfactory certificate thereof issued, a bill of complaint shall be filed, in the name of the Commonwealth, in the supreme judicial court of the county of Essex, against said corporation and its officers, to compel a specific performance of the contract of said corporation with the Commonwealth. And full power and authority is hereby given to said court, as a court of chancery, to hear and determine said cause, and to make and enforce all necessary orders and decrees.

Proviso.

Trustees to be appointed.

SECTION 2. The mayor and aldermen of the city of Salem, on or before the said twenty-fourth day of September, in the year one thousand eight hundred and fifty-eight, and in the month of February of each succeeding year, as long as the provisions of this act shall remain in force, shall appoint two trustees of the Essex Bridge, who shall remain in office till their successors shall be duly appointed; and in case of death, resignation or removal, the vacancy for the unexpired term shall be filled by similar appointment by said mayor and aldermen. The selectmen of the town of Beverly shall, in like manner, on or before said twenty-fourth day of September, and in the month of February of each succeeding year, as long as the provisions of this act shall remain in force, appoint one trustee of the Essex Bridge; and any vacancy, caused by death, resignation or removal, shall be filled for the unexpired term by similar appointment of said selectmen. The first appointment of such trustees shall be construed to be an acceptance of this act by said city of Salem and town of Beverly, and due notice thereof shall be given to the treasurer and receiver-general of the Commonwealth.

Treasurer to quitclaim to trustees.

SECTION 3. As soon as the treasurer and receiver-general of the Commonwealth shall have received due notice as

aforesaid, of the appointment of such trustees, and the bridge shall have been delivered up as aforesaid, the said treasurer and receiver-general is hereby authorized to execute to such trustees, in the name, and under the seal of said Commonwealth, a deed of quitclaim and release of said bridge, and the franchise now held by the said corporation to said trustees, to have and to hold to said trustees and their successors, upon the following trusts and conditions, that is to say:—

First.—The said trustees shall cause the said bridge to be kept in good repair, and at all times, in the night time as well as in the day, safe and convenient for the passage of travellers. Conditions.

Second.—The said trustees shall cause to be kept and maintained, a convenient draw or passage-way, at least thirty feet wide, in the same part of the bridge with the present draw, proper for the passing and repassing of vessels by day and by night through the said bridge, and shall also maintain in good repair, the piers on each side of said draw, and shall extend the pier on the eastern side thereof at least thirty feet, and shall constantly keep at said draw some suitable person for lifting up the same, for the passing and repassing of all ships and vessels whose masts will not admit a safe passage under said bridge. And the agents of said trustees shall be required to render all practicable aid to vessels passing such draw.

Third.—Said trustees may levy a toll at the rates now enforced by the proprietors of Essex Bridge. No toll shall be levied except as aforesaid, and no charge of any kind shall be made to vessels passing said draw.

Fourth.—At the place where the toll shall be collected there shall be conspicuously exposed to view a sign or board with the rates of toll painted thereon in large letters.

Fifth.—The said trustees shall, on the first day of January, in each year, present an account of moneys received by them and expenses incurred, to such committees or persons as may be appointed by the city council of Salem and by the town of Beverly to audit the same, which accounts shall be made up to the first day of December next preceding; and copies of said accounts, when allowed, shall be published three times, successively, in one of the newspapers printed in the city of Salem.

Sixth.—The said trustees shall have the entire charge and superintendence of said bridge, and the necessary repairs thereof, and may appoint draw-tenders and toll-gatherers, and all necessary servants and agents.

Seventh.—If the receipts of said bridge shall, upon being audited as aforesaid, appear to have been insufficient to pay the ordinary expenses incurred during the term, the deficiency shall be made up by the city of Salem and the inhabitants of Beverly, the former being liable to said trustees for two-thirds thereof, and the latter for one-third thereof.

Eighth.—If the receipts of any year shall exceed the expenses, such excess shall be safely and securely invested as a *contingent fund*, and shall be suffered to accumulate until the same shall reach the sum of thirty thousand dollars, after which time, the income of said contingent fund may be applied to the ordinary expenses of maintaining said bridge: *provided*, that whenever it shall become necessary to make any extraordinary repairs upon such bridge, the trustees may appropriate a part of such funds for such purpose; and if at the time of such appropriation the funds shall have reached the aforesaid sum of thirty thousand dollars, the interest and surplus earnings accruing afterwards, shall be added to the principal sum until the fund shall again reach the sum of thirty thousand dollars.

Ninth.—The legislature may reduce the rates of toll, whenever the contingent fund shall have reached the sum of ten thousand dollars, and may wholly abolish the same when the same shall amount to thirty thousand dollars, or whenever the inhabitants of Beverly, at a meeting legally called for the purpose, and the city council of the city of Salem shall, by vote, agree to accept and maintain said bridge.

Tenth.—The city of Salem and the inhabitants of Beverly shall be liable in an action of tort, for any accidents which may be caused to passengers by any defect in said bridge, to the same extent in which towns are or shall be liable for any defect in a townway; the former being liable for two-thirds, and the latter being liable for one-third thereof. In all actions for damages, as aforesaid, the city of Salem and inhabitants of Beverly shall be made defendants, and execution which shall issue may be satisfied against either defendant, who may compel a contribution by the other. But in no event shall any part of the toll received be applied to the payment of damages.

Supreme court shall have jurisdiction to enforce, &c.

SECTION 4. The supreme judicial court, upon the information of the attorney-general, shall have full jurisdiction to enforce the performance of the trusts and conditions of said deed, as well against the city of Salem and inhabitants of Beverly, as against said trustees; and this section shall not impair the rights or remedies of any person who may be injured by any act, misdoing or default, of any party in the

premises, nor the authority of the grand jury to proceed by indictment against any party for any wrongful act or omission. [Approved May 30, 1857.]

AN ACT in addition to an Act establishing the Salaries of certain Public Officers. *Chap. 269*

Be it enacted, &c., as follows :

SECTION 1. The first section of chapter one hundred and thirty-one of the acts of the year one thousand eight hundred and fifty-four, is so far amended as that the first clerk in the treasurer's office shall receive an annual salary of fifteen hundred dollars; the salary of the chief clerk in the office of the secretary of the Commonwealth shall be fifteen hundred dollars; to be computed from and after the first day of January, in the year one thousand eight hundred and fifty-seven,—to be paid to them in full for their services, in quarterly payments, from the treasury of the Commonwealth.

First clerks in secretary's and treasurer's offices.

SECTION 2. All acts and parts of acts, inconsistent herewith, are hereby repealed.

Inconsistent acts repealed.

SECTION 3. This act shall take effect from and after its passage. [Approved May 30, 1857.]

AN ACT providing for the Election of School-Committees.

Chap. 270

Be it enacted, &c., as follows :

SECTION 1. The inhabitants of every town in this Commonwealth shall, at the next annual meeting after the passage of this act, choose by written ballot, a board of school-committee, which board shall consist of three, six, nine or twelve persons, or any other number divisible by three; and said board shall have all the powers, and be subject to all the duties and liabilities, provided by law.

Inhabitants shall choose.

SECTION 2. At the first annual meeting after the passage of this act, each and every town in this Commonwealth shall, by vote of the inhabitants thereof, decide of what number the aforesaid board shall consist. One-third of said board shall then be elected for the term of one year, one-third for the term of two years, and one-third for the term of three years; after which first election, one-third of said board shall be elected for the term of three years.

Duration of office.

SECTION 3. Whenever, from any cause, any vacancy shall occur in the aforesaid board, such vacancy may be filled in the same manner as is now provided by law: *provided*, any person elected or appointed to fill any vacancy as aforesaid, shall hold office only during the term for which his predecessor was elected.

Vacancies.

Increase and diminution.

SECTION 4. Whenever any town shall decide by vote to increase or diminish the number of persons constituting the aforesaid board, such increase may be effected by adding one or more to each class,—which additional person or persons shall hold office according to the tenure of the class for which he or they may be elected; and a diminution may be effected by a successive decrease of one or more at each annual election thereafter, until the desired number shall be struck off: *provided*, that in case one or more of the number of said board shall be struck off in any one year, the same number shall be struck off in each of the two succeeding years, so that the diminution shall equally affect each class.

Proviso.

Cities.

SECTION 5. Any city in this Commonwealth, in which the board aforesaid is elected by the people, may avail itself of the provisions of this act, as to the election of such board,—*provided*, the city council of such city shall vote so to do; in which case the number of which such board shall consist shall be determined by a joint vote of said city council.

Inconsistent acts repealed.

SECTION 6. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed. [*Approved May 30, 1857.*]

Chap. 271 AN ACT concerning the Parsonage Lands of the Second Parish in West Newbury.

Be it enacted, &c., as follows:

Proceeds of sale.

The proceeds of the sale authorized by the first section of the fiftieth chapter of the acts of eighteen hundred and fifty-five, shall be placed in the hands of three trustees, to be appointed by the parish, at a meeting duly called for the purpose, to be held by them in trust, for the same purposes as the lands which have been sold in pursuance of said first section were originally held. [*Approved May 30, 1857.*]

Appointment of trustees.

Chap. 272 AN ACT establishing the Salary of the Clerk of the Courts for the County of Hampden.

Be it enacted, &c., as follows:

Salary of \$1,800.

SECTION 1. The clerk of the courts for the county of Hampden shall hereafter retain for his annual salary, out of the fees for which he is to account, the sum of eighteen hundred dollars, if he shall have received so much.

SECTION 2. This act shall take effect from and after its passage. [*Approved May 30, 1857.*]

AN ACT to increase the Capital Stock of the City Bank, of Worcester. *Chap. 273*

Be it enacted, &c., as follows :

SECTION 1. The president, directors and company of the City Bank, of Worcester, are hereby authorized to increase their present capital stock, by an addition thereto of one hundred thousand dollars, in shares of one hundred dollars each, which shall be paid in such installments as the president and directors may determine: *provided*, that the whole amount shall be paid in before the first day of May, in the year one thousand eight hundred and fifty-eight.

Additional capital.

Proviso.

SECTION 2. If any of the stockholders of said bank remonstrate against the acceptance of the additional capital herein provided, the said remonstrance shall be made in writing, to the cashier of the bank, on or before the first day of July next; and if the persons so objecting, legally represent one-fourth part of the present capital stock of said corporation, it shall not be entitled to the benefit of this act.

Remonstrance to be in writing.

SECTION 3. The additional stock aforesaid, when paid into said bank, shall be subject to the like tax, regulations, restrictions and provisions, to which the present capital stock of said bank is now subject.

Taxation of capital.

SECTION 4. Before the aforesaid corporation shall proceed to do business on said additional capital, a certificate, signed by the president and directors, and attested by the cashier, under oath, that the same has actually been paid into said bank, shall be returned to the office of the secretary of the Commonwealth.

Certificate to be returned to secretary's office.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 30, 1857.*]

AN ACT establishing the Salaries of the Judges and Registers of Courts of Insolvency. *Chap. 274*

Be it enacted, &c., as follows :

SECTION 1. The several judges and registers of insolvency shall receive the sums hereinafter named, for their services, to be paid to them respectively out of the treasury of this Commonwealth, in quarterly payments, on the first days of January, April, July and October, and in the same proportion for any part of a year, to wit:—

Salaries of judges of insolvency.

The judge of insolvency for the county of Suffolk, the sum of twenty-five hundred dollars:

The judge of insolvency for the county of Middlesex, the sum of twelve hundred dollars:

The judge of insolvency for the county of Worcester, eleven hundred dollars:

The judge of insolvency for the county of Essex, one thousand dollars :

The judge of insolvency for the county of Norfolk, nine hundred dollars :

The judge of insolvency for the county of Bristol, seven hundred dollars :

The judge of insolvency for the county of Plymouth, seven hundred dollars :

The judge of insolvency for the county of Berkshire, five hundred dollars :

The judge of insolvency for the county of Hampden, five hundred dollars :

The judge of insolvency for the county of Hampshire, four hundred dollars :

The judge of insolvency for the county of Franklin, three hundred dollars :

The judge of insolvency for the county of Nantucket, two hundred dollars :

The judge of insolvency for the county of Barnstable, three hundred dollars :

Registers of insolvency.

The register of the court of insolvency for the county of Suffolk, shall receive the sum of three thousand dollars :

The register for the county of Middlesex, eleven hundred dollars :

The register for the county of Worcester, eleven hundred dollars :

The register for the county of Essex, nine hundred dollars :

The register for the county of Norfolk, nine hundred dollars :

The register for the county of Hampden, four hundred dollars :

The register for the county of Bristol, five hundred dollars :

The register for the county of Plymouth, five hundred dollars :

The register for the county of Berkshire, four hundred dollars :

The register for the county of Hampshire, three hundred dollars :

The register for the county of Franklin, three hundred dollars :

The register for the county of Barnstable, three hundred dollars :

The register for the county of Nantucket, one hundred dollars :

Shall not receive additional compensation.

SECTION 2. No judge or register of insolvency shall receive any fee or compensation in addition to the salaries

above provided, for any thing done by them respectively in their official capacities, except as provided in those sections of the two hundred and eighty-fourth chapter of the acts of the year one thousand eight hundred and fifty-six not hereby repealed.

SECTION 3. The insolvent court established by the provisions of said chapter, for Dukes county, is hereby abolished, except for the purpose of finishing any cases in insolvency already commenced and pending therein, or which may be so commenced before this act shall go into operation.

Insolvency court for Dukes county abolished.

SECTION 4. The same jurisdiction, power and authority, now possessed and lawfully exercised over all persons, matters and cases in insolvency, by said court for Dukes county, its judge and register, are hereby conferred upon and vested in the court of probate now established in Dukes county, and the judge and register of said probate court shall be required to do all the business of the insolvency court of Dukes county, and they shall receive the compensation now received by the judge and register of the insolvency court in said county.

Probate court to exercise jurisdiction.

SECTION 5. The judge and register of insolvency for the county of Dukes shall continue to receive their salaries at the rate heretofore established, until such pending cases, or cases to be commenced before this act goes into operation, shall be finished: *provided, however*, that the same shall in no event be paid for a longer term than six months.

Salary to continue under cases now pending.

SECTION 6. Sections eighteen, nineteen, twenty and twenty-one, of said chapter, and all other parts or provisions of the same chapter, inconsistent with this act, are hereby repealed. [*Approved May 30, 1857.*]

Partial repeal

AN ACT to repeal "An Act to change the time of assessing Taxes in the City of Boston." *Chap. 275*

Be it enacted, &c., as follows:

The three hundred and first chapter of the acts of the year one thousand eight hundred and fifty-two, is hereby repealed. [*Approved May 30, 1857.*]

Repeal of act of 1852.

AN ACT in addition to an Act relating to Joint Stock Companies, and for other purposes. *Chap. 276*

Be it enacted, &c., as follows:

SECTION 1. All manufacturing corporations hereafter established by special charter, and all corporations organized or established under the provisions of the one hundred and

Certain corporations to make returns

thirty-third chapter of the acts of the year eighteen hundred and fifty-one, and the several acts in addition thereto; and all gas-light companies established under the provisions of the one hundred and forty-sixth chapter of the acts of the year eighteen hundred and fifty-five, shall make, publish and deposit all the certificates and returns required by said one hundred and thirty-third chapter, and the acts in addition thereto.

Provisions of 22d section of 38th chapter R. S. not to apply.

SECTION 2. None of the provisions of the twenty-second section of the thirty-eighth chapter of the Revised Statutes shall be applicable to any of the corporations mentioned in the preceding section.

Partial repeal.

SECTION 3. The second section of the four hundred and thirty-eighth chapter of the acts of the year eighteen hundred and fifty-four, is hereby repealed. [*Approved May 30, 1857.*]

Chap. 277

AN ACT in addition to an Act concerning the Indexing of Deeds.

Be it enacted, &c., as follows :

Chap. 292 of 1856 amended.

SECTION 1. The second section of the two hundred and ninety-second chapter of the acts of the year eighteen hundred and fifty-six, is hereby so amended as to empower the county commissioners in the several counties to cause the Christian names of the grantors and grantees, as well as their surnames, to be arranged in alphabetical order, whenever in their opinion references to the records will be facilitated thereby.

SECTION 2. This act shall take effect from and after its passage. [*Approved May 30, 1857.*]

Chap. 278

AN ACT to incorporate the Newton Railroad Company.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. H. S. Whitmore and Preston Wear, junior, their associates and successors, are hereby made a corporation by the name of the Newton Railroad Company, with power to construct, maintain and use a railway or railways, with convenient single or double tracks, from such point or points in the town of Newton, and upon and over such of the streets or highways therein as may be from time to time fixed by the selectmen of said town, with the assent of said corporation in writing expressed, and filed with said selectmen, to the line of the town of Brighton, and thence upon and over such streets or highways of the town of Brighton, as may from time to time be fixed and determined by the selectmen of said town of Brighton, and assented to in

Power to construct.

Location.

writing by said corporation, and filed with said selectmen of Brighton. Said company shall have power to construct said road over and upon any lands where the land damages may be mutually settled before entering upon said land; also said company shall have the right to locate and construct said road over any road which may be laid out in Brighton or Newton, by the county commissioners, with power to connect with either the Western Avenue Railroad, or the Cambridge Railroad, now chartered: *provided, however*, that all tracks of said railroad shall be laid at such distances from the sidewalks in said towns, as the selectmen of said towns respectively shall, within their orders fixing the routes of said railroads, determine to be for the public safety and convenience; and said corporation shall have power to fix, from time to time, such rates of compensation, for transportation of persons or property, as they think expedient, and shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Provided, however.

Rates of fare.

Privileges, restrictions, &c.

SECTION 2. The selectmen of said towns, respectively, shall have power, at all times, to make all such regulations as to the rate of speed and mode of use of said tracks, as the public convenience and safety may require.

Selectmen shall have power.

SECTION 3. Said corporation shall maintain and keep in repair such portion of the streets as shall be occupied by their tracks, and shall be liable for any loss or injury that any person may sustain by reason of any carelessness, neglect or misconduct of its agents and servants.

Repairs, &c.

SECTION 4. If any person shall wilfully and maliciously obstruct said corporation in the use of said road or tracks, or the passing of the cars or carriages of said corporation thereon, said persons, and all who shall be aiding or abetting therein, shall be punished by a fine not exceeding five hundred dollars, or may be imprisoned in the common jail for a period not exceeding three months.

Penalty for obstructing.

SECTION 5. The capital stock of said corporation shall not exceed one hundred and fifty thousand dollars, to be divided into shares of fifty dollars each; and no share shall be issued for a less sum to be actually paid in on each, than the par value of the shares which shall be first issued.

Capital stock \$150,000, in shares of \$50 each.

SECTION 6. Said corporation shall have power to purchase and hold such real estate, within said towns or either of them, as may be convenient or necessary for the purposes and management of said road.

May hold real estate.

SECTION 7. The town of Newton or Brighton may, at any time during the continuance of the charter of said cor-

Newton or Brighton may purchase franchise, &c.

poration, and after the expiration of ten years from the opening of any part of said road for use, purchase of said corporation all the franchise, property, rights and furniture of said corporation, by paying them therefor such a sum as will reimburse to each person who may then be a stockholder therein, the par value of his stock, together with a net profit of ten per cent. per annum from the time of the transfer of said stock to him on the books of the corporation, deducting the dividends received by said stockholder therein; or either of said towns may purchase, on the same terms and conditions, that part of the corporate property which lies within its own limits, paying therefor a proportional sum, to be ascertained by commissioners to be appointed by the supreme judicial court.

Gauge and grade
of road.

SECTION 8. The said road shall be constructed and maintained in such form and manner, and upon such grade and such gauge as the selectmen of said towns may direct; and whenever, in the judgment of said corporation, it shall be necessary to alter the grade of any street so occupied by it, such alteration may be made at the sole expense of said corporation: *provided*, the same shall be assented to by the selectmen of said towns, respectively.

Proviso.

Corporation may
issue bonds.

SECTION 9. Said corporation is hereby authorized to issue bonds for the purpose of constructing their road, the amount thereof not to exceed the amount of capital stock paid in, of the same kind, in the same manner, upon the same terms, conditions and restrictions, and to be approved, certified, recorded and secured, in all respects, in the same way as the Cambridge Railroad have been authorized by law to issue bonds.

Act not to pre-
vent authorities,
&c.

SECTION 10. Nothing in this act shall be construed to prevent the proper authorities, within said towns, from entering upon and taking up any of the public streets, traversed by said railroad, for the purposes for which they may now lawfully take up the same for repairs.

Act void, unless,
&c.

SECTION 11. This act shall be void, so far as relates to the right to construct said road in either of said towns, unless the same shall be accepted by the selectmen of said town and by said corporation, and ten per cent. of the capital stock thereof paid in within three years from and after the passage of this act.

Returns.

SECTION 12. Said corporation shall be deemed a railroad corporation so far as to be subject to make such annual returns to the legislature as are or may be prescribed by law, but not to the other general provisions of law in relation to railroad corporations.

SECTION 13. The existence of said corporation is hereby limited to the term of fifty years from the passage hereof. Duration.
 [Approved May 30, 1857.]

AN ACT in addition to an Act to incorporate the Salem Mechanic Hall Corporation. Chap. 279

Be it enacted, &c., as follows :

SECTION 1. The Salem Mechanic Hall Corporation are authorized to increase their capital stock, by issuing not more than two hundred and fifty shares, in addition to the number already issued, at forty dollars for each share, and to hold real estate to an amount not exceeding in the whole the sum of forty thousand dollars. Capital stock increased.
250 shares at \$40.

SECTION 2. This act shall take effect from and after its passage. [Approved May 30, 1857.]

AN ACT relating to the Sale of Deadly Poisons.

Chap. 280

Be it enacted, &c., as follows :

SECTION 1. Whenever any apothecary, or other person, shall hereafter sell, in this Commonwealth, without the written prescription of a physician, any arsenic, strychnine, corrosive sublimate, or prussic acid, he shall keep a record of the date of such sale, the article, and the amount thereof sold, and the person or persons to whom delivered. Record to be kept.

SECTION 2. Any person neglecting to comply with the provisions of this act, shall forfeit to the use of the city or town in which he shall make such sale, a sum not exceeding fifty dollars for each offence. And any person purchasing deadly poisons, as aforesaid, who shall give a false or fictitious name to any apothecary or other person, as aforesaid, shall be liable to a fine not exceeding fifty dollars. Penalties.
 [Approved May 30, 1857.]

AN ACT concerning the Boston Lunatic Hospital.

Chap. 281

Be it enacted, &c., as follows :

SECTION 1. The city of Boston, by and through the agency of the Board of Visitors of the Boston Lunatic Hospital, or by and through any other agency which shall be established therefor by the city council of the city of Boston, may admit into said hospital, as patients, insane persons, who are not paupers, upon such terms and conditions, and for such compensation as may, from time to time, be fixed by said city council, or by the authority thereof. Patients may be admitted who are not paupers.

SECTION 2. This act shall take effect from and after its passage. [Approved May 30, 1857.]

Chap. 282 AN ACT to amend "An Act to establish a Hospital for Insane in Western Massachusetts."

Be it enacted, &c., as follows :

Treasurer may
issue scrip \$150,-
000.

SECTION 1. Chapter four hundred and fifty-four of the acts of the year one thousand eight hundred and fifty-five, is hereby so far amended as to authorize the treasurer, under the direction of the governor, with the advice and consent of the council, to issue scrip or certificates of debt in the name and behalf of the Commonwealth, to an amount not exceeding one hundred and fifty thousand dollars, bearing an interest not exceeding six per cent., payable semi-annually, on the first days of April and October, with warrants for the interest attached thereto, signed by the treasurer, which scrip or certificates shall be redeemable on the first day of April, one thousand eight hundred and sixty-eight, and shall be countersigned by the governor of the Commonwealth, and be deemed a pledge of the faith and credit of the Commonwealth for the redemption thereof; and the treasurer may, under the direction of the governor and council, dispose of any portion of said scrip at any price not less than its original par value.

Shall destroy old
scrip.

SECTION 2. The treasurer, in the presence of the governor and auditor, is hereby authorized to destroy the scrip or certificates of debt, made under the authority of the second section of chapter four hundred and fifty-four of the acts of one thousand eight hundred and fifty-five.

Partial repeal.

SECTION 3. So much of the second section of chapter four hundred and fifty-four of the acts of one thousand eight hundred and fifty-five, as conflicts with the provisions of this act, is hereby repealed. [*Approved May 30, 1857.*]

Chap. 283 AN ACT in addition to an Act establishing a Hospital for Insane in Western Massachusetts.

Be it enacted, &c., as follows :

\$50,000 appropri-
ated to complete.

SECTION 1. The sum of fifty thousand dollars is hereby appropriated for the purpose of completing the hospital for insane in Western Massachusetts, now being erected in Northampton, to be expended under the authority of the commissioners provided in the act to which this is in addition: *provided*, that no part of the said sum shall be drawn from the treasury, unless the governor and council shall first be satisfied by detailed estimates and specifications, that the said hospital will be entirely completed for said sum.

Proviso.

Treasurer to is-
sue scrip.

SECTION 2. In order to provide the means to defray the expenses contemplated in the first section of this act, the treasurer is hereby empowered, under the direction of the

governor, with the advice and consent of the council, to issue scrip or certificate of debt in the name and the behalf of the Commonwealth, and under his signature and the seal of the Commonwealth, to an amount not exceeding fifty thousand dollars, bearing an interest of six per cent. per annum, payable semi-annually on the first days of June and December, with warrants for the interest attached thereto, signed by the treasurer, which scrip or certificate shall be redeemable on the first day of June, one thousand eight hundred and seventy-seven, and shall be countersigned by the governor of the Commonwealth, and be deemed a pledge of the faith and credit of the Commonwealth, for the redemption thereof: and the treasurer may, under the direction of the governor and council, dispose of any portion of said scrip at any price not less than its original par value.

SECTION 3. The commission provided in the act to which this is in addition, shall terminate on the first day of October, one thousand eight hundred and fifty-seven. Commission shall terminate, when.

SECTION 4. This act shall take effect from and after its passage. [*Approved May 30, 1857.*]

AN ACT concerning the Discipline of the State Prison.

Chap. 284

Be it enacted, &c., as follows :

SECTION 1. The warden of the state prison shall keep a record of the conduct of each convict, and for every month that such convict shall appear by such record to have faithfully observed all the rules and requirements of the prison, and shall not have been subjected to punishment, there shall be a scale of deduction from the term of such convict's sentence, in the following proportion: For a convict under sentence for a term of less than three years, one day for each month of good conduct during said term; for a convict whose sentence is for a term of three years or more, and less than ten years, two days for each month of good conduct during said term; and for a convict whose sentence is for a term of ten years or more, five days for each month of good conduct during said term. Record of conduct.

SECTION 2. The record aforesaid, with the scale of deduction provided in the foregoing section, shall be submitted once in three months, by the warden, to the governor and council, that the same may be considered by them in the exercise of the executive clemency on behalf of each convict, if they shall deem the same conducive to the interests of the prison and promotive of the reformation and welfare of the convicts confined therein. Deduction from term of sentence.

SECTION 3. This act shall take effect from and after its passage. [*Approved May 30, 1857.*]

Record shall be submitted to governor and council quarterly.

Chap. 285

AN ACT to incorporate the Suffolk Railroad Company.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. That George H. Plummer, Ebenezer Atkins, Edward F. Porter, David L. Webster, Asa Fisk, John G. Webster, and their associates and successors, are hereby made a corporation by the name of the Suffolk Railroad Company; with power to construct, maintain and use a railway or railways, with convenient single or double tracks, commencing at such central point or points in the city of Boston, as shall be fixed by the board of aldermen of said city, with the assent of said corporation, expressed in writing and filed with said board of aldermen; thence upon and over such streets and highways of said city, as shall from time to time be fixed and determined by said board of aldermen, with the written assent of said corporation filed as aforesaid, to some points at or near the western terminus of the Chelsea and each of the East Boston Ferries; and again commencing at or near the eastern terminus of each of the East Boston Ferries; thence upon and over Lewis, Border, Sumner, Meridian and Chelsea Streets, or either of said streets, or such other streets and highways in East Boston, as shall from time to time be fixed and determined by the board of aldermen of said city, with the written assent of said corporation, filed with said board of aldermen.

Power to construct, &c.

Route.

Rates of fare.

SECTION 2. All tracks of said railroad shall be laid at such distances from the sidewalks in said city, as the board of aldermen, in their orders fixing the route of said railroad, may determine; and said corporation shall have power to fix, from time to time, such rates of compensation for transporting persons and property, as they may think expedient; and shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes; and *provided*, that any time after the expiration of one year from the opening for use of said railroad, in any street in which the same may be located, as provided by its charter, the city council of the city of Boston may, by vote of the majority, determine as to the said track, that the same or any part thereof be discontinued; and thereupon the location shall be deemed revoked, in conformity with such vote of the city council: *provided*, that such taking and removal shall be at the expense of the said railroad company. Notice to abutters on streets, in which it may be proposed to lay the tracks of said corporation, shall be given by publication in one or more newspapers published in said city of Boston, of an order of

Privileges, restrictions, &c.

City council may discontinue, &c.

Notice to abutters.

notice from the board of aldermen of said city, fourteen days at least before the location of any such tracks.

SECTION 3. Said tracks or roads shall be operated and used by said corporation with horse-power only. The board of aldermen of said city shall have power, at all times, to make all such regulations, as to rate of speed and mode of use of said tracks, as the public convenience and safety may require.

SECTION 4. Said corporation shall maintain and keep in repair such portion of the streets, as shall be occupied by their tracks, and shall be liable for any loss or injury that any person may sustain, by reason of any carelessness, neglect or misconduct of any of its agents or servants in the management, construction or use of said track; and in case recovery shall be had against said city by reason of any such defect or want of repair, said corporation shall be liable to pay to said city any sums thus recovered against them, together with all costs and reasonable expenses incurred by said city, in the defence of any such suit or suits in which recovery may be had; and said corporation shall not encumber any portion of the streets not occupied by said road or tracks.

SECTION 5. If any person shall wilfully or maliciously injure said track or tracks, or obstruct said corporation in the use of said road or tracks, or the passing of the cars or carriages of said corporation thereon, such person, and all who shall be aiding or abetting therein, shall be punished by a fine not exceeding five hundred dollars, or may be imprisoned in the common jail for a period not exceeding three months.

SECTION 6. If said corporation or its agents or servants, shall, wilfully or maliciously obstruct any highway, or the passing of any carriages over the same, such corporation shall be punished by a fine not exceeding five hundred dollars.

SECTION 7. The capital stock of said corporation shall not exceed three hundred thousand dollars, to be divided into shares of fifty dollars each; and no shares shall be issued for a less sum, to be actually paid in on each, than the par value of the shares which shall first be issued, without the written consent of each of the stockholders of said corporation.

SECTION 8. Such corporation shall have power to purchase and hold such franchises, personal estate and real estate, as may be convenient or necessary for the purposes of the transportation of passengers and freight between said termini, and for the management of said road.

Board of aldermen to determine grade.

SECTION 9. The said road shall be constructed and maintained, in such form and manner, and upon such grade as the board of aldermen of said city may, in their votes, fixing and determining the routes thereof, as aforesaid, prescribe and direct; and whenever, in the judgment of said railroad corporation, it shall be necessary to alter the grade of any street so occupied by it, such alteration may be made at the sole expense of said corporation: *provided*, the same shall be assented to by the board of aldermen of said city.

Act not to prevent authorities taking up streets.

SECTION 10. Nothing in this act shall be construed to prevent the city authorities from entering upon and taking up any of the public streets or bridges traversed by said railroad, for the purposes for which they may now lawfully take up the same.

Act void, unless.

SECTION 11. This act shall be void so far as it relates to the right to construct said roads, unless the same shall be accepted by the city council of said city, and also by the said corporation, and unless ten per centum of the capital stock thereof be paid in within two years after the passage thereof.

Returns.

SECTION 12. Said corporation shall be deemed a railroad corporation, so far as to be subject to make such annual returns to the legislature as are, or may be, prescribed by law, but not to the other provisions of law in relation to railroad corporations.

Boston may purchase franchise, &c.

SECTION 13. The city of Boston may, at any time during the continuance of the charter of the said corporation, and after ten years from the opening of any part of the road for use, purchase of the said corporation all franchise, property, rights and furniture of said corporation, by paying them therefor such a sum as will reimburse to each person who may be then a stockholder therein, the par value of his stock, together with a net profit of ten per cent. per annum, from the time of the transfer of said stock to him on the books of the corporation, deducting the dividends received by said stockholder thereon.

Corporation may lease or transfer to any other corporation.

SECTION 14. The corporation hereby created, is authorized and empowered to lease or transfer all its property, rights and privileges, or any part thereof, or of its tracks, to any other like corporation now existing, or which may hereafter be created, for the purpose of constructing a railroad track over and upon any part of the route contemplated by this act, on such terms, and to such extent, as may be mutually agreed upon between the parties, and make and execute any transfers, contracts or agreements that may be deemed necessary or proper for the purpose; and the corporation

receiving such transfer shall thereupon have and hold the portion or property so transferred, with all the rights and privileges, and subject to the same restrictions and provisions, as were applicable to this corporation.

SECTION 15. The existence of said corporation is hereby limited to the period of fifty years from the passage of this act: *provided, nevertheless*, that the legislature may, at any time, repeal this act, or limit and restrict the powers herein granted. [*Approved May 30, 1857.*]

Duration.

Provided, nevertheless.

AN ACT concerning the Charlestown Water Works.

Chap. 286

Be it enacted, &c., as follows :

The Charlestown Water Works are hereby authorized to contract with any other corporation or person, for a supply of water for the purposes for which said water works were incorporated. [*Approved May 30, 1857.*]

May contract for supply of water.

AN ACT in relation to the Powers of County Commissioners in laying out Ways across Railroads.

Chap. 287

Be it enacted, &c., as follows :

SECTION 1. If, after the laying out and making of any railroad already granted, or which may be hereafter granted, the public convenience and necessity shall require any turnpike road, or other way, to be so laid out as to cross said railroad, the said turnpike road, or other way, may be so laid out and established across said railroad whenever the county commissioners of the county in which such crossing is situated shall so authorize and direct.

County commissioners may authorize the laying out of ways across railroads.

SECTION 2. The said commissioners, before laying out any way across a railroad, shall cause due notice to be given to the corporation to which said railroad belongs, that they may be heard in the premises; and after hearing said corporation, and any other parties interested who may wish to be heard, they may lay out a way across said railroad, but they shall require said way to be so constructed as to pass under or over the same, and not upon the same level therewith, except in cases hereinafter provided for; and said way shall, in all cases, be so made as not to obstruct or injure such railroad.

Notice to railroad corporations.

SECTION 3. The selectmen of any town, or the mayor and aldermen of any city, before laying out any way across a railroad, shall make application to the county commissioners of the county in which such town or city is situated, for permission so to do; and the said commissioners shall cause due notice of such application to be given to the corporation,

Application to county commissioners.

to which such railroad belongs; and after hearing said corporation, and any other parties interested, who may wish to be heard, may authorize said selectmen, or mayor and aldermen, to lay out a way across said railroad, and shall require said way to be so made as to pass under or over the said railroad, and not at the same level therewith, except in cases for which provision is hereinafter made; and they shall in all cases require said way to be so made as not to obstruct or injure said railroad.

Manner of construction.

SECTION 4. The county commissioners shall, in their adjudications, determine whether the way shall be so constructed as to pass under the railroad, or over the same; and if the way shall pass over the railroad, they shall determine and specify in what manner the bridge necessary for such crossing shall be constructed, so as not to interfere with the travel upon said railroad; and all the expenses arising from and incident to, the construction and maintaining of the way across said railroad shall, in all cases, be borne by the county, city, town or corporation, whose duty it is to build and maintain such way.

Highway across any railroad on the same level therewith.

SECTION 5. Whenever, in the opinion of the county commissioners, there may exist a public necessity that a highway or town way shall be laid out and constructed across any railroad, at the same level therewith, they may so lay out a highway, and may authorize the selectmen of any town, or the mayor and aldermen of any city, so to lay out and construct a town way.

Duties of railroad corporations at crossings.

SECTION 6. Any railroad corporation whose road shall be crossed by any turnpike or other way, as hereinbefore provided, shall, in all cases when the said turnpike or way crosses said railroad on a level therewith, at their own expense, so guard or protect their rails by plank, timbers, or otherwise, as to secure a safe and easy passage across their railroad; and if in the opinion of the county commissioners, any subsequent alteration of said turnpike or other way, or any additional safeguards shall be required at the crossing thereof, the county commissioners may order the railroad company to establish the same, as provided in the three hundred and fiftieth chapter of the acts of the year one thousand eight hundred an fifty-five.

Partial repeal.

SECTION 7. The second section of the two hundred and seventy-first chapter of the acts of the year one thousand eight hundred and forty-six, is hereby repealed. [*Approved May 30, 1857.*]

AN ACT to authorize Tisdale Drake to extend his Wharf in Boston.

Chap. 288

Be it enacted, &c., as follows :

Tisdale Drake, proprietor of Drake's Wharf, so called, in Boston, is hereby authorized to extend and maintain said wharf twenty-five feet : and this extension shall be made in the direction of and in conformity to the general plan provided for in an act to authorize the extension of certain wharves, in Boston, approved on the thirteenth day of April, in the year eighteen hundred and fifty ; and the said Drake shall have the right to lay vessels at the end and sides of said wharf, and receive dockage and wharfage therefor : *provided*, that the legal rights of no person shall be impaired or infringed upon under this grant ; and *provided, also*, that in case the general plan for the extension of certain wharves, as provided for in said act, approved April thirteenth, in the year eighteen hundred and fifty, shall hereafter be executed or carried out, the proprietor of the wharf hereby authorized to be extended, shall be entitled to all the rights, and subject to all the duties, liabilities and restrictions, which he would be by the said act, if this act had not been passed ; and *provided, also*, that this act shall not be construed to repeal or modify the said act, passed in eighteen hundred and fifty ; and *provided, also*, that this act shall not authorize the extension of any wharf above the southerly line of the original structure of Curtis' Wharf, so called, continued straight to the harbor line, established by the act passed April seventeenth, eighteen hundred and fifty ; and *provided, also*, that this grant shall not be construed to extend to any flats or land of this Commonwealth, lying in front of the flats of any other person, or which would be comprehended by the true lines of such flats, continued to the commissioners' line, in Boston harbor, established by law. [*Approved May 30, 1857.*]

May extend wharf.

Rights, &c.

Proviso.

Provided, also.

Rights, duties, &c.

Proviso.

AN ACT in relation to Fugitives from Justice.

Chap. 289

Be it enacted, &c., as follows :

SECTION 1. No person who has been arrested upon an executive warrant, as an alleged fugitive from the justice of any other State or Territory, shall be delivered over to the agent of such State or Territory, until he shall have been notified of the demand made for his surrender, and shall have had opportunity to apply for a writ of *habeas corpus*, if he shall claim such right of the officer making the arrest. And whenever such application shall be made, notice thereof, and of the time and place of hearing thereon, shall be

Persons arrested shall have opportunity to apply for a writ of *habeas corpus*.

given to the attorney-general, or other prosecuting officer for the district within which the arrest is made.

Penalty for failing to comply.

SECTION 2. Any officer who shall deliver over to the agent of any State or Territory, for extradition, any person in his custody, upon an executive warrant, issued as aforesaid, without having first complied with the provisions of this act, shall be liable to a penalty not exceeding one thousand dollars, to be recovered by indictment in any court competent to try the same. [*Approved May 30, 1857.*]

Chap. 290 AN ACT to secure Returns from Keepers of Jails and Overseers of Houses of Correction.

Be it enacted, &c., as follows :

Penalty if sheriff omit to make return.

SECTION 1. Any sheriff who shall omit to make, and transmit to the secretary of the Commonwealth, true answers to each and all of such inquiries concerning jails as are authorized and required by the act of March third, eighteen hundred and forty, entitled, "An Act concerning Jails and Houses of Correction," and also by an act additional thereto, approved April fourth, eighteen hundred and forty-nine, shall forfeit the sum of one hundred dollars for every such omission.

If boards of overseers omit

SECTION 2. Each member of every such board of overseers of houses of correction as shall omit to make, and transmit as aforesaid, true answers to each and all of the inquiries concerning houses of correction, authorized and required by the acts aforesaid, shall forfeit the sum of fifty dollars for every such omission.

Forfeitures—how recovered.

SECTION 3. The forfeitures prescribed in this act may be recovered by complaint in any competent court of this Commonwealth,—one-half of the same to go to the complainant, and the other half to inure to the Commonwealth.

Copy of act to accompany blank form of returns.

SECTION 4. The blank forms of returns, required by the acts before mentioned, shall be accompanied by a copy of this act. [*Approved May 30, 1857.*]

Chap. 291 AN ACT in addition to "An Act to regulate the use of Railroads."

Be it enacted, &c., as follows :

Railroad corporations may unite.

SECTION 1. Every railroad corporation which, by the provisions of the one hundred and ninety-first chapter of the acts of the year one thousand eight hundred and forty-five, may be required to draw over its road the passengers, merchandise and cars of any other railroad corporation, shall have the right, and is hereby authorized to enter with its railroad upon, and unite the same with, the road of such

other railroad corporation, and use the same; and each of said corporations, whose roads are so united, shall, for a reasonable compensation, provide upon its road convenient and suitable depot accommodations for such passengers and merchandise, and shall receive and deliver the same, in the same manner it may receive and deliver its own passengers and freight.

SECTION 2. Any commissioners who may have been, or may hereafter be appointed by the supreme judicial court, in accordance with the provisions, and for the purposes specified in the said one hundred and ninety-first chapter of the acts aforesaid, shall determine and fix the rate of compensation to be paid for the depot accommodations required for the proper reception and delivery of passengers and merchandise, as provided in the first section of this act; and said commissioners shall, upon the application of either party, if the respective corporations cannot agree, hear and determine all questions between the parties, in relation to the transportation of freight and passengers over, and other business upon, and connected with said roads, in which said corporations are, or may be jointly interested; and they shall determine the manner in which said business shall be done, and apportion to said corporations, respectively, their just share of the cost and expense of doing said business, and of the receipts or income from the same; and the award of said commissioners, or a major part of them, shall be binding upon the respective corporations interested therein, subject, nevertheless, to the same limitations and restrictions as are contained in the second section of the act to which this is in addition.

Commissioners to determine all questions between the parties.

SECTION 3. This act shall only apply to such roads both of which terminate in the same town or city.

Act shall apply only, &c.

SECTION 4. This act shall take effect from and after its passage. [*Approved May 30, 1857.*]

AN ACT concerning the Draining of Low Lands.

Chap. 292

Be it enacted, &c., as follows :

SECTION 1. Whenever the lands from, through, and across which the road, drain, ditch, tunnel or railway provided for in the first section of the one hundred and fourth chapter of the acts of the year eighteen hundred and fifty-five, is desired to be constructed, are all situate in the same town or city, the application provided for in the second section of said act, may be made to the selectmen of said town, or the mayor and aldermen of said city, who shall proceed thereon, in all

Application to selectmen or mayor and aldermen.

respects, as county commissioners are now required to do by said act, except that no notice need be given by them to said town or city, unless they shall see fit so to do.

Parties aggrieved may complain to county commissioners.

SECTION 2. Any party aggrieved by any order, decree, or refusal of said selectmen or mayor and aldermen, may complain to the county commissioners of the county where the lands lie, at any meeting within one year from the time of such order, decree or refusal; and the commissioners may, thereupon, proceed in all respects as if said application had been originally made to them.

Application and decree shall be recorded.

SECTION 3. The application aforesaid shall be filed in the office of the clerk of such town or city, before any proceedings shall be had thereon, and such application, together with decree of said selectmen, or mayor and aldermen, shall be recorded in said clerk's office within two months after such decree shall have been made. And such clerk shall be entitled to receive, for recording the same, the like fees as in cases of mortgages of personal property.

Remuneration.

SECTION 4. The said selectmen or mayor and aldermen shall be entitled to receive for their services, the sum of two dollars each, for every day occupied by them in the case. [Approved May 30, 1857.]

Chap. 293 AN ACT concerning the Purchase and Sale of Spirituous Liquors by City and Town Agents.

Be it enacted, &c., as follows :

Injunction against agents acting in violation of law.

SECTION 1. The supreme judicial court shall have power in equity, on complaint of any party interested, to restrain and enjoin any city or town agent, who shall purchase or sell any spirituous or intoxicating liquors, in violation of any law of the Commonwealth; and such injunction may be issued by any justice of said court, in term time or vacation.

Penalty for purchasing of any other than a commissioner.

SECTION 2. Any city or town agent, appointed under the provisions of the two hundred and fifteenth chapter of the acts of the year eighteen hundred and fifty-five, who shall purchase any spirituous or intoxicating liquor of any person other than a commissioner, appointed under the four hundred and seventieth chapter of the acts of the same year, or shall sell any such liquor, so by him purchased, shall be liable to the penalties provided in the seventeenth section of said first named act, for being a common seller of such liquors.

Penalty for selling adulterated liquors.

SECTION 3. If any commissioner, appointed as aforesaid, shall sell any adulterated spirituous or intoxicating liquor, he shall be liable to the penalties provided in the seven-

teenth section of said first named act, for being a common seller of such liquors.

SECTION 4. This act shall take effect from and after its passage. [*Approved May 30, 1857.*]

AN ACT in addition to an Act to establish a Police Court in the Town of Adams. *Chap. 294*

Be it enacted, &c., as follows :

SECTION 1. A court shall be held, by the standing justice of the police court heretofore established in the town of Adams, at some suitable place in the North Village in said town, provided at the expense of said justice, on two several days of each week, at nine o'clock in the forenoon ; and also at some suitable place in the South Village in said town, on one day in every two weeks, at nine o'clock in the forenoon, and as much oftener at each place as may be necessary, to take cognizance of crimes, offences and misdemeanors, and also for the trial of civil suits and actions ; said several times and places of holding said court to be appointed and made known by said justice.

Court at north and south village

SECTION 2. The special justice of said police court shall have power, in case of the absence of the standing justice of said court, at the appointed times, from either place of holding said court, or in case of his sickness, interest, or other disability, to issue the processes of said court, to hear and determine any matter or cause pending, and to exercise all the powers of the standing justice, until such disability be removed.

Special justice may exercise powers of the standing justice, in case, &c

SECTION 3. The standing justice of said court shall retain to his own use all fees by him received, or which now accrue to justices of the peace, in civil actions and criminal prosecutions, in full compensation for all services assigned to him by this act, and the act to which this is in addition : *provided*, that he shall not retain, for his services in criminal prosecutions, a sum exceeding four hundred and fifty dollars annually, but shall pay over to the county treasurer all fees received by him, in criminal prosecutions, over and above that sum.

Compensation of standing justice.

SECTION 4. All acts and parts of acts, inconsistent with this act, are hereby repealed.

Inconsistent acts repealed.

SECTION 5. This act shall take effect from and after its passage. [*Approved May 30, 1857.*]

Chap. 295

AN ACT in relation to the Returns of Votes.

Be it enacted, &c., as follows :

Secretary to furnish envelopes for returns of votes.

SECTION 1. It shall be the duty of the secretary of the Commonwealth, to furnish, annually, to the several clerks of the cities and towns in this Commonwealth, with the blanks for the returns of votes, now required by law to be furnished to them by him, envelopes of suitable dimensions, and with such printed directions thereon as he shall deem necessary for the more certain guidance and direction of said officers in making such returns according to law.

Receipt of returns.

SECTION 2. A memorandum of the date of the reception of all returns of votes, now required to be made to the secretary's office, shall be made at said office on the envelopes containing such returns; and in case any such return shall be transmitted to the secretary's office unsealed, which is now required to be returned sealed up, the secretary shall make a memorandum of that fact upon the said return.

Certificate of examination by governor and council.

SECTION 3. It shall be the duty of the governor, for the time being, to make and subscribe a certificate of the examination of said returns of votes for governor, lieutenant-governor and councillors, by him made, in the presence of at least five councillors, and also of the result of such examination, which said certificate shall be by him delivered to the secretary, and shall by the secretary be laid before the senate and house of representatives, together with said returns of votes, on the first Wednesday of January.

Envelopes not to be destroyed.

SECTION 4. In the examination of the said returns of votes for governor, lieutenant-governor and councillors, required by the sixteenth article of amendment to the constitution of this Commonwealth, no one of the envelopes containing said returns shall be destroyed, but the said returns shall be replaced in their respective envelopes, which shall be laid before the senate and house of representatives with said returns, on the first Wednesday of January, by the secretary. [*Approved May 30, 1857.*]

Chap. 296

AN ACT to authorize the Heirs of the late John Curtis to extend their Wharf in Boston.

Be it enacted, &c., as follows :

May extend wharf.

The heirs of the late John Curtis, proprietors of Curtis' Wharf, so called, in Boston, are hereby authorized to extend and maintain said wharf sixty-five feet; and this extension shall be made in the direction of and in conformity to the general plan provided for in an act to authorize the extension of certain wharves in Boston, approved on the thirteenth

day of April, in the year eighteen hundred and fifty; and the said Curtis heirs shall have the right to lay vessels at the end and sides of said wharf, and receive dockage and wharfage therefor: *provided*, that the legal rights of no person shall be impaired or infringed upon under this grant; and *provided, also*, that in case the general plan for the extension of certain wharves as provided for in said act, approved April thirteenth, eighteen hundred and fifty, shall hereafter be executed or carried out, the proprietors of the wharf hereby authorized to be extended, shall be entitled to all the rights, and subject to all the duties, liabilities and restrictions which they would be by the said act if this act had not been passed; and *provided, also*, that this act shall not be construed to repeal or modify the said act passed in eighteen hundred and fifty; and *provided, also*, that this act shall not authorize the extension of any wharf above the southerly line of the original structure of Curtis Wharf, so called, continued straight to the harbor line, established by the act passed April seventeenth, eighteen hundred and fifty; and *provided, also*, that this grant shall not be construed to extend to any flats or land of this Commonwealth lying in front of the flats of any other person, or which would be comprehended by the true lines of such flats continued to the commissioners' line, in Boston harbor, established by law. [Approved May 30, 1857.]

Rights, &c.

Proviso.

Provided, also.

AN ACT extending the time for the construction of a Branch Track in Lowell, by the Boston and Lowell Railroad Corporation. *Chap. 297*

Be it enacted, &c., as follows:

The time allowed the Boston and Lowell Railroad Corporation, for locating, building and completing a branch railroad in the city of Lowell, under the provision of an act passed on the twenty-fourth day of April, in the year eighteen hundred and fifty-six, entitled, "An Act to authorize the Boston and Lowell Railroad Corporation to establish an additional branch track of their railroad in the city of Lowell," is hereby extended to the first day of June, in the year eighteen hundred and fifty-eight. [Approved May 30, 1857.]

Time for locating extended.

AN ACT to exempt from Levy on Execution the Homestead of a Householder. *Chap. 298*

Be it enacted, &c., as follows:

SECTION 1. In addition to the property now exempt by law from sale or levy on execution, there shall be exempted, to the value of eight hundred dollars, the homestead farm,

Homestead to the value of \$800 exempted from levy on execution.

or the lot and buildings thereon, occupied as a residence, and owned by the debtor, or any such buildings owned by the debtor, and so occupied, on land not his own, but of which he shall be in rightful possession by lease or otherwise, he being a householder, and having a family; and no release or waiver of such exemption shall be valid in law unless by deed, acknowledged and recorded as in the case of conveyances of real estate: *provided, however*, that no person shall hold, exempted as above, such property, to a larger amount than eight hundred dollars, including the rights of exemption which may have been acquired under the provisions of the three hundred and fortieth chapter of the acts of the year one thousand eight hundred and fifty-one, or under the provisions of chapter two hundred and thirty-eight of the acts of the year one thousand eight hundred and fifty-five.

Proviso.

To continue for the benefit of the widow and children.

SECTION 2. Such exemption shall continue after the death of such householder, for the benefit of his widow and children,—some one of them continuing to occupy such homestead until the youngest child be twenty-one years of age, and until the death or subsequent marriage of the widow.

Intention to hold as a homestead shall be recorded.

SECTION 3. To entitle any property to such exemption it shall be set forth in the deed of purchase, that it is designed to be held as a homestead under this act; or, if already purchased, or otherwise acquired, the said design shall be declared by writing duly sealed, acknowledged and recorded in the registry of deeds of the county wherein such homestead farm, lot or buildings, are situated; and, after the right of homestead shall have attached to any real estate by the registration provided for in this section, the owner of such real estate shall not be entitled to, or have any similar right of homestead in any other real estate, until the first right of exemption shall have been discharged or released by the owner thereof, according to the requirements of the first section of this act, with the consent of his wife, expressed in the deed, or, in case of the death or insanity of the wife, by license from the judge of probate, as provided in the tenth section of this act.

Not exempt from levy for taxes or debt of purchase.

SECTION 4. No property shall, by virtue of this act, be exempt from levy for taxes, or for a debt contracted for the purchase thereof, or for a debt contracted before such deed or writing aforesaid shall have been recorded according to law; nor shall buildings on land not owned by the debtor, be exempt from levy for the ground rent of the lot of land whereon such buildings stand.

SECTION 5. Such exemption shall not be deemed to defeat or otherwise affect any mortgage, or other encumbrance or lien, previously existing by virtue of any deed, attachment, policy of insurance or otherwise.

Exemption shall not affect any mortgage previously existing.

SECTION 6. No conveyance, by the owner of any homestead farm, or lot and buildings thereon, exempted by law from sale or levy on execution, the value whereof shall not exceed eight hundred dollars, shall be valid in law to convey or release such homestead, unless the wife shall join in the conveyance.

No conveyance valid except the wife join.

SECTION 7. Any conveyance by the husband, heretofore made, or hereafter to be made, of any property exempted as aforesaid, shall be valid in law to defeat the interests of the wife and children in such property, she joining therein, for the purpose of releasing her right to a homestead in said property, in the same manner in which a wife may now release her right of dower in the real estate of her husband.

Wife may release her right of homestead.

SECTION 8. Whenever any married woman, who, if she survived her husband, would have a right of homestead in his real estate, is, by reason of insanity, incompetent to release such right, the same may, nevertheless, be effectually released, according to the provisions of this chapter.

If incompetent by reason of insanity.

SECTION 9. The fact of such insanity shall be ascertained, and thereupon a guardian appointed, by proceedings in the probate court, as in such cases is now provided by law: and the husband, if a suitable person for the trust, may be appointed as such guardian.

Guardian shall be appointed.

SECTION 10. Whenever the husband of such insane woman is desirous of conveying any of his real estate, whether absolutely in fee, or only by way of mortgage, he shall petition the judge of probate, describing the same, asking leave that the right of homestead of his wife therein may be released, and setting forth any facts and reasons why his prayer should be granted; and if, after notice in some newspaper to all persons interested, and hearing thereon, the judge of probate shall be satisfied, under all the circumstances of the case, that such married woman would, if sane, release her right of homestead in said real estate, he shall authorize and direct her guardian to make such release by joining in any deed of conveyance, to be made within five years thereafter, either by such husband or any trustee for him, and whether such deed pass the whole, or only separate parcels or lots of said real estate: *provided, nevertheless*, that such authority shall cease at any time within said five years, as to any release thereafter to be made, whenever the

Judge of probate may authorize release.

Provided, nevertheless.

said guardian shall be discharged by the judge of probate, according to law, as no longer necessary.

May order \$800 to be set aside to be invested in a homestead.

SECTION 11. If, upon hearing, the judge of probate, shall deem it proper, under all the circumstances of the case, that some portion of the proceeds of such real estate, or of any sum loaned on mortgage thereof, should be reserved for the use of such married woman, he may order that a certain sum, not exceeding eight hundred dollars, shall be set aside, and paid over to such guardian, to be invested in a homestead and held by him for the benefit of such married woman, in case she shall survive her husband; the rent or use of such homestead, nevertheless, to be received and enjoyed by such husband during the life of his wife, or until otherwise ordered by the judge of probate, upon good cause shown to him; and the said homestead to be his, in case he survives her, and to be conveyed to him accordingly by said guardian.

No conveyance exceeding \$800 to be invalid by omission of wife to join, but subject, &c.

SECTION 12. No conveyance, made by the owner of any homestead farm, or the lot and buildings thereon, occupied as a residence, and exceeding in value the sum of eight hundred dollars and exempted from sale or levy on execution, shall, in consequence of the omission of his wife to join in such conveyance, be invalid in law to convey such homestead farm, or lot and buildings thereon, subject to the wife's right of dower and to the rights of said husband, his wife and children, to have a homestead set off therefrom of the value of eight hundred dollars; but such conveyance shall, without such joinder of the wife, be invalid to alienate the right to have such homestead, not exceeding in value eight hundred dollars, assigned or set off to them.

No conveyance heretofore made exceeding \$800 to be invalid, &c.

SECTION 13. No conveyance, heretofore made by the husband, of a homestead farm, or the lot and buildings thereon occupied as a residence and exempted from sale or levy on execution, and worth more than eight hundred dollars, shall be held invalid to pass the excess thereof beyond such value, in consequence of the omission of his wife to join in such conveyance of such homestead farm, or lot and buildings, subject, however, to the wife's right of dower. And all titles to real estate held under such conveyances, wherein the wife has failed to join, are hereby confirmed and established, subject, however, to the wife's right of dower, and the right of homestead in the property conveyed, except where parties, other than the grantees in such conveyances, or those claiming under them, have, prior to the passage of this act, acquired rights in said real estate, by attachments, levy on execution, descent, devise, purchase or otherwise.

SECTION 14. In all cases of conveyances of real estate heretofore made, or hereafter to be made, in which any person or persons are entitled to have a homestead exempted from sale or levy on execution, the parties entitled to such homestead, may have the same set off to them, upon petition, in the same manner in which tenants in common may obtain a division of undivided real estate. And the parties entitled to the excess of such homestead farm, or lot and buildings beyond eight hundred dollars, may, in the same manner, upon a similar petition, have their proportion or share of said real estate set off to them. In all cases where a widow or her minor children are entitled to a homestead in the estate of any deceased person, the same may be set off to the person or persons entitled to the same, in the same manner as dower may now be set off to a widow, by the provisions of the sixtieth chapter of the Revised Statutes.

Parties entitled to a homestead may have the same set off upon petition.

SECTION 15. If any judgment creditor shall require an execution to be levied on property claimed by the debtor to be exempt from levy under this act, and the officer holding such execution, shall be of opinion that the premises are of greater value than eight hundred dollars, then appraisers shall be appointed to appraise the property in the same manner as is provided by law for the levy of executions on real estate. And if in their judgment the premises be of greater value than eight hundred dollars, the said appraisers shall set off to the judgment debtor so much of the said premises, including the dwelling-house, as shall appear to them, including the dwelling-house, if set off, to be of the value of eight hundred dollars; and the residue of the property shall be levied upon and disposed of in the same manner as other real estate not exempted by law from levy on execution.

Upon appraisal, excess of property above \$800 may be levied upon, &c.

SECTION 16. Whenever the real estate of a debtor shall be assigned, under the several "Acts in relation to Insolvent Debtors, and for the more equal distribution of their effects," and such debtor shall claim, and it shall appear to the judge before whom the proceedings in insolvency are pending, that he is entitled to hold any part of said estate, exempt from liability for his debts under the provisions of this act,—if it shall appear to said judge that the estate so claimed is of greater value than eight hundred dollars, said judge shall cause said estate to be appraised by three impartial and discreet men, one of whom shall be appointed by the insolvent, one by the assignee of said insolvent's estate, and the third by said judge,—or in case the assignee or insolvent shall neglect to appoint one, the said judge shall appoint one for them; and the three thus appointed shall be duly sworn

Appraisal of the property of an insolvent debtor claiming right of homestead.

faithfully and impartially to appraise said estate, and shall proceed to appraise and set off a homestead in the same, to the insolvent debtor, in the same manner as is prescribed in section eleven of this act in case of a judgment debtor; and the residue, if any, shall vest in and be disposed of by the assignee in the same manner as other real estate not exempted by law from levy on execution. For the services so rendered, the appraisers shall be entitled to the same fees, to be paid out of the estate in insolvency, as are allowed to appraisers of real estate seized upon execution.

Proceedings in insolvency now pending.

SECTION 17. The provisions of the last preceding section may apply to proceedings in insolvency which may be pending when this act shall take effect.

Acts repealed.

SECTION 18. Chapter two hundred and thirty-eight of the acts of the year eighteen hundred and fifty-five, and chapter three hundred and forty of the acts of the year eighteen hundred and fifty-one, are hereby repealed: *provided*, that such repeal shall not affect any rights which may have been acquired under said acts. [*Approved May 30, 1857.*]

Proviso.

Chap. 299 AN ACT in addition to an Act to incorporate the Newton Railroad Company.

Be it enacted, &c., as follows :

Horse-power, only.

The tracks or road of the Newton Railroad Company shall be operated and used by said corporation with horse-power only, and it shall not connect its track with any other railroad on which other power is used. [*Approved May 30, 1857.*]

Shall not connect

Chap. 300 AN ACT concerning Cases arising under the forty-ninth chapter of the Revised Statutes, concerning the maintenance of Bastard Children.

Be it enacted, &c., as follows :

Police court of Boston shall have cognizance, &c.

SECTION 1. The police court of Boston, shall have cognizance of complaints made under the provisions of chapter forty-nine of the Revised Statutes, and the justices' court shall not have jurisdiction in such cases.

When to take effect.

SECTION 2. This act shall take effect from and after its passage, but shall not affect any case then pending. [*Approved May 30, 1857.*]

Chap. 301

AN ACT in relation to the Taxation of Horses.

Be it enacted, &c., as follows :

Horses to be taxed where kept.

SECTION 1. All horses employed in stages or other vehicles for the transportation of passengers for hire, shall be taxed in the cities and towns in which they are kept.

SECTION 2. So much of the second section, of chapter Partial repeal. one hundred and thirty-nine of the acts of the legislature of one thousand eight hundred and thirty-nine, as is inconsistent with this act, is hereby repealed. [*Approved May 30, 1857.*]

AN ACT concerning Insane Persons in the City of Boston.

Chap. 302

Be it enacted, &c., as follows :

SECTION 1. The municipal court of the city of Boston, and all other courts and magistrates having authority to commit insane persons to the State Lunatic Hospital, may commit all insane persons found in the city of Boston, whether they are furiously mad or otherwise, who have their legal settlement in the city of Boston, or in any other city or town within this Commonwealth, to the Boston Lunatic Hospital, in all cases in which said courts and magistrates are authorized by law, to commit such persons to the State Lunatic Hospital. May be committed to the Boston Lunatic Hospital.

SECTION 2. This act shall take effect from and after its passage. [*Approved May 30, 1857.*]

AN ACT concerning the Militia.

Chap. 303

Be it enacted, &c., as follows :

SECTION 1. Whenever the volunteer militia shall be engaged in camp duty, each company roll-call, during the term of encampment, shall be made under the supervision and in presence of a staff officer, to be designated by the commanding officer of any regiment or battalion to which said company shall be attached ; and said commanding officer shall certify upon the duplicate returns of duty in camp, now by law required to be made by commanders of companies, that such company did, on the several days of encampment, well and faithfully perform all the duties required by law, on such days, and that the number of officers, non-commissioned officers, musicians and privates, reported as present and doing duty each day, in such duplicate returns, is correct. Staff officers shall supervise roll-call of companies engaged in camp duty. And no compensation shall be allowed to any person who shall not remain in camp and perform all required duties, during the period of said encampment ; excepting that any person, who shall once appear, and be excused from further duty by reason of sickness, shall be entitled to compensation for the time he is actually engaged in service. Shall certify, &c.

SECTION 2. The amount to be allowed to the several cities and towns, for defraying the expense of armories furnished to companies of the volunteer militia, shall be Expense of armories.

adjudicated and determined by the adjutant-general, within the limit of existing law; and the said adjutant-general shall be the sole commissioner for the purposes specified in the third section of chapter one hundred and eighty-eight of the acts of eighteen hundred and fifty-three.

Companies numbering less than 32 privates to be disbanded.

SECTION 3. When any company of the volunteer militia shall be reduced to a less number than thirty-two privates, and shall remain so reduced for six consecutive months, such company may be disbanded by the commander-in-chief. And when any company of said militia shall appear, from any two successive returns made to the adjutant-general, to be reduced below thirty-two privates, at the time or times for which said returns shall be made, said company shall be forthwith disbanded by the commander-in-chief.

Enlistment of 50 men necessary to an election of officers.

SECTION 4. No election of officers shall be ordered in any company, hereafter to be organized, unless at least fifty men shall have been enlisted in said company; and no company shall be hereafter organized, if the same shall cause the whole number of the volunteer militia to exceed six thousand officers and men.

Inconsistent acts repealed.

SECTION 5. All acts and parts of acts, inconsistent with this act, are hereby repealed. [*Approved May 30, 1857.*]

Chap. 304

AN ACT to incorporate the Brookline Railroad Company.

Be it enacted, &c., as follows:

Corporators.

SECTION 1. William Aspinwall, Charles Wild, George F. Homer, Thomas B. Hall, Augustus Allen, Augustus Shurtleff and James Bartlett, their associates and successors, are hereby made a corporation by the name of the Brookline

Power to construct a railway.

Railroad Company, with power to construct, maintain and use a railway or railways, with convenient single or double tracks, upon and over such roads, streets or highways in the town of Brookline, south or west of a line to be drawn from the stone boundary between Brookline and Brighton on Harvard Street, to the intersection of the easterly line of the new highway near the Longwood Station, now called Elm Street, about to be laid out by the county commissioners of Norfolk County, with the boundary line between Brookline and Roxbury; thence by said easterly line of said new highway, to the south-easterly line of the Punch Bowl road, so called, belonging to the Boston and Roxbury Mill Corporation, as shall be from time to time, fixed and determined by vote of the selectmen of said Brookline, and assented to, in writing, by the said company, and across the Punch Bowl road aforesaid, so as to connect the road, street or highway

Location.

upon one side thereof, with the road, street or highway upon the other side thereof, and upon and over such roads, streets or highways, in the city of Roxbury, now or hereafter laid out, lying between said Brookline and Tremont Street, in said Roxbury, as shall be, from time to time, fixed and determined by the mayor and aldermen of said city, and assented to, in writing, by said company, so as to connect the said railway with the railway of any other company which may be located upon said Tremont Street, with the right to enter upon and use the track or tracks of such other company, in such mode and upon such rates of compensation, as may be agreed upon by said companies, or in case of disagreement, to be determined by three commissioners, to be appointed as hereinafter provided: *provided, however,* that said tracks shall not be laid upon said Punch Bowl road longitudinally, nor across the same in more than one place; and *provided, also,* that said Brookline Railroad Company shall not have the power to connect its tracks with the tracks of the Western Avenue Railroad Company, and upon any such connection being made this act shall be void.

Provided, how-
ever.

Provided, also.

SECTION 2. And if the road of any other railroad corporation shall have been located and laid upon any street or way in the city of Boston or the city of Roxbury, then so much of this act as authorizes this corporation to lay a track thereon, shall be inoperative so long as such track shall remain upon such street or way; but the mayor and aldermen of said city may authorize this company to enter upon and use the track or tracks of such other corporation or part thereof, in such mode as they may deem expedient, and upon such rates of compensation as may be agreed upon by said companies, or in case of disagreement to be determined by three commissioners, to be appointed by the supreme judicial court, in the same manner and with the same powers as are set forth in the one hundred and ninety-first chapter of the acts of eighteen hundred and forty-five, entitled, "An Act to regulate the use of Railroads."

Corporation shall
not lay track up-
on the route of
any other rail-
way.

May use other
tracks.

SECTION 3. Said railroad company shall pay to said Boston and Roxbury Mill Corporation, during the continuance of its toll franchise, such compensation or tolls for the right hereby given of using said roads, estates, bridges or lands of said corporation, for laying a track or tracks thereon, as may be mutually agreed upon; or if the said corporation and said company shall be unable to agree thereon, three commissioners, appointed as aforesaid, shall determine and fix the said rate of compensation or tolls; and in case said Mill Corporation shall refuse or neglect to designate a proper

Tolls, &c.

Commissioners
may determine,
&c.

location over its said roads, bridges, estates or lands, for the acceptance of this company, or of any other railroad company having the right to such location, within thirty days after being requested to designate the same, the said commissioners shall have power to designate such location for the use of this or such other company, as well as to fix the amount of compensation or tolls as aforesaid.

Party dissatisfied may apply for a jury.

SECTION 4. If either party shall be dissatisfied with the decision of said commissioners, so far as the same shall fix the rate of compensation or tolls in the several cases provided for in this act, such party may apply for a jury by petition to the court of common pleas, at the term then next to be holden within and for the county of Norfolk, or to the superior court of the county of Suffolk, at the term then next to be holden, and not afterwards; and thereupon, after due notice to the other party, such court shall order a trial by jury to be had in the case at the bar of such court, in the same manner in which civil causes are there tried by the jurors there returned and impaneled; and if either party request it, the jury shall view the roads, bridges, estates or railroads in question; but the jury shall not revise the decision of the commissioners, except so far as relates to the rates of compensation or tolls aforesaid.

Tracks, how laid.

SECTION 5. All tracks of such railroad shall be laid at such distances from the sidewalks in said city and town, and over such portions of the said roads, bridges, estates or lands of said Mill Corporation, as the mayor and aldermen of said city and selectmen of said town, and directors of said corporation shall respectively, in their votes, fixing the routes of said railroad, determine to be for the public safety and convenience. Notice to the owners of lands and occupants of tenements abutting on any public road or streets, on which it may be proposed to lay the tracks of said company, shall be given by publishing in one or more newspapers in the city of Boston and in the county of Norfolk, notice from the mayor and aldermen of said city, and the selectmen of said town, fourteen days at least before the location of any such railroad tracks. The written assent of said company to any vote or votes of said mayor and aldermen, and said selectmen and said directors, prescribing, from time to time, the routes of said railroad, shall be filed with the respective clerks of said city and town and corporation, and shall be deemed and taken to be locations thereof. Said railroad company shall have power to fix, from time to time, such rates of compensation for transporting persons or property, as its officers may think expedient: *provided, however, the*

Notice to abutters.

Assent to be filed.

Rates of fare.

rate of fare upon said railroad, between any two points in the city of Boston, shall never exceed five cents for each passage, unless with the assent of the mayor and aldermen of said city. Said railroad company shall have all the powers and privileges, and be subject to all the liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

SECTION 6. If the railroad of this company shall be located across any railroad operated by steam, upon the same level therewith, the expense of constructing and maintaining in repair such crossing, shall be borne entirely by the Brookline Railroad Company; and the provisions of the four hundred and fifty-second chapter of the acts passed in the year one thousand eight hundred and fifty-five, entitled, "An Act to secure the Safety of Passengers at Railroad Crossings," shall not be construed to apply to the intersection of such steam railroad and the railroad of this company.

SECTION 7. Said tracks shall be operated and used by said company with horse-power only, and it shall not connect its track with any other railroad on which other power is used. The mayor and aldermen of any city, and the selectmen of any town, over whose streets or roads said tracks shall be laid or maintained, shall respectively have power at all times to make such regulations, as to the rate of speed and mode of use of said tracks over the said streets or roads within their respective limits, as the public safety and convenience may require; and shall also have power, at any time after the expiration of one year from the opening for use of the tracks of said railroad, in any road or street in which the same may be located under this act, by a vote to determine as to so much of said track as is located on their said respective roads or streets, within the limits of their respective cities and towns, that the same or any part thereof shall be discontinued, and thereupon the location shall be, as to such part, deemed to be revoked, and the tracks of said railroad thereon shall be forthwith taken up and removed, in conformity with such vote or orders of said mayor and aldermen, or selectmen: *provided, however,* that such taking up and removal shall be at the expense of said railroad company.

SECTION 8. Said company shall maintain and keep in repair such portion of the streets, roads, estates and bridges, respectively, as shall be occupied by their tracks, and shall be liable for any loss or injury that any person may sustain, by reason of any carelessness, neglect or misconduct of its agents and servants, in the construction, management or use

of said tracks, roads, streets, bridges or estates; and in case any recovery shall be had against either said city or town, or said mill corporation, respectively, by reason of any defect or want of repair thereon, said railroad company shall be liable to pay to said city or town, or mill corporation, respectively, any sums recovered against either of them, together with all costs and reasonable expenditures incurred by them or either of them, in the defence of any suit or suits in which recovery shall be had for such defect or want of repair, the claim for which sums, costs and expenditures, shall constitute a lien upon the franchise and railroad tracks of said company, until the same shall have been paid by said company; and said lien shall not be defeated or impaired by any lease or conveyance of, or contract concerning said franchise or railroad track, made by said company; and any lease or conveyance of, or contract concerning said franchise or railroad track, shall be subject to the lien of such city or town for any claim they or either of them may have by reason of any recovery which may be had against either of them for such defect or want of repair, notwithstanding the suit therefor may be brought, or the judgment recovered, after the execution of such lease, conveyance, or contract: *provided*, the cause of action shall have arisen prior to the execution of such lease, conveyance or contract; and said railroad company shall not encumber any portion of the streets, roads, estates or bridges, not occupied by its said railroad tracks.

Penalty for obstructing.

SECTION 9. If any person shall wilfully and maliciously obstruct said company in the use of said road or tracks, or the passing of the cars or carriages of said company thereon, such person, and all who shall aid or abet therein, shall be punished by a fine not exceeding five hundred dollars, or may be imprisoned in the common jail, for a period not exceeding three months. If said company, or its agents or servants, shall wilfully and maliciously obstruct any highway, or the passing of any carriages over the same, said company shall be punished by a fine not exceeding five hundred dollars.

Capital stock \$300,000, in shares of \$100 each.

SECTION 10. The capital stock of said company shall not exceed three hundred thousand dollars, and shall be divided into shares of one hundred dollars each; and shares shall not be issued for a less sum than one hundred dollars, actually paid in.

May hold real estate.

SECTION 11. Said company shall have power to purchase and hold such real estate within said cities or town through which said railroad passes, or either of them, as

may be convenient or necessary for the purposes and management of said road.

SECTION 12. The cities and towns, on whose streets and roads said railroad shall run, may, at any time during the continuance of the charter of said company, and after ten years from the opening of any part of said road for use, purchase of said company all the franchise, property, rights and furniture of said company, by paying said company therefor such a sum as will reimburse to each person who may then be a stockholder thereof, the par value of his stock, together with a net profit of ten per cent. per year from the time of the transfer of said stock to him on the books of the corporation, deducting the dividends received by the said stockholder thereon.

Cities and towns may purchase franchise, &c.

SECTION 13. The said road shall be constructed and maintained in such form and manner, and upon such grade, and with such gauge as the mayor and aldermen of said city, and the selectmen of said town, and the directors of said mill corporation, respectively, may, in their votes fixing and determining the routes thereof as aforesaid, prescribe and direct; and whenever, in the judgment of said railroad company, it shall be necessary to widen or alter the grade of any street or way so occupied by it, such widening or alteration may be made at the sole expense of said company: *provided*, the same shall be assented to by the mayor and aldermen of the city, the selectmen of the town, and the directors of the corporation to which such street or way may belong.

Grade and gauge of road.

SECTION 14. Nothing in this act shall be construed to prevent the city authorities, county authorities, town authorities, or said mill corporation, from entering upon and taking up any of their streets, roads, ways or bridges, traversed by said railroad, for any purpose for which they may now lawfully take up the same, or from laying out and constructing ways across said railroad, upon the same level therewith, as well as above or under the same.

Act not to prevent authorities, &c.

SECTION 15. This act shall be void so far as it relates to the right to construct said road in the streets or ways belonging to any city or town, unless the same shall be accepted by the city council of such city, or the inhabitants of such town in town meeting, respectively, and unless the same shall be accepted by said company, and ten per cent. of the capital stock thereof, as fixed by the vote of said company, shall be paid in, within two years from the passage of this act.

Act void, unless, &c.

SECTION 16. The said company shall be deemed a railroad corporation so far as to be subject to make such annual

Returns, &c

returns to the legislature as are or may be prescribed by law, and also so far as to be subject to all existing provisions of law for the assessment and payment of damages for the land outside of the streets, roads, ways or bridges taken by them for their track, but not to the other general provisions of law in relation to railroad corporations.

Duration.

SECTION 17. The existence of said company is hereby limited to the period of fifty years from the passage of this act: *provided, nevertheless*, that the legislature may at any time repeal this act, or limit, restrict or annul any powers herein granted.

Proviso.

May contract with, and hold stock of the West Roxbury Railroad Corporation.

SECTION 18. The Brookline Railroad Company may make such contract with the West Roxbury Railroad Company as may be deemed expedient in regard to the construction of and running cars upon so much of the track of said West Roxbury Railroad Company as said Company is or shall be authorized to lay upon Tremont Street in the city of Roxbury and the city of Boston; and the Brookline Railroad Company is hereby authorized to subscribe to and hold shares in the capital stock of said West Roxbury Railroad Company, to an amount not exceeding twenty-five thousand dollars. And the Brookline Railroad Company shall have the same rights and privileges, and shall be subject to the same duties, liabilities and restrictions, in regard to connecting its tracks with the tracks of the Metropolitan Railroad Company and of the West Roxbury Railroad Company, and running cars thereon, as said West Roxbury Railroad Company may have and be subjected to towards the Metropolitan Railroad Company.

Connection of tracks with the Metropolitan and West Roxbury Railroad Companies.

Filling up of lands and flats.

SECTION 19. This corporation may contract with the commissioners on the Back Bay, or with other parties, to fill up the lands and flats of the Commonwealth, or of such other parties; and if the said commissioners shall contract as aforesaid with said corporation, they may confer upon said corporation the rights and powers which they are authorized to confer by the first clause of the second resolve of the sixtieth chapter of the resolves passed in the year one thousand eight hundred and fifty-five, entitled "Resolves in favor of giving additional powers to the Commissioners on Boston Harbor and Back Bay," and in such case any party suffering damage by any thing done in pursuance of the exercise by said corporation of the rights or powers aforesaid, may recover the same of said corporation instead of the Commonwealth, in the manner provided in the fifth of said resolves.

SECTION 20. This act shall take effect from and after its passage. [Approved May 30, 1857.]

AN Act to enable parties in Civil Actions and Proceedings to be Witnesses therein. *Chap. 305*

Be it enacted, &c., as follows :

SECTION 1. Parties in all civil actions and proceedings, including probate and insolvency proceedings, suits in equity, and all divorce suits, except those in which a divorce is sought on the ground of alleged criminal conduct of either party, may be admitted to testify in their own favor, and may be called as witnesses by the opposite party; and in all such cases in which the wife is a party or one of the parties to the action, she and her husband shall be competent witnesses for or against each other, but they shall not be allowed to testify as to private conversations with each other: *provided*, that no person so testifying shall be compelled to criminate himself; and *provided, also*, where one of the original parties to the contract or cause of action then in issue and on trial, is dead, or is shown to the court to be insane; or, when an executor or administrator is a party to the suit or proceeding, the other party shall not be admitted to testify in his own favor, except in the last named case, as to such acts and contracts as have been done or made since the probate of the will, or the appointment of the administrator.

Parties in civil suits may testify except, &c.

Proviso.
Provided, also.

SECTION 2. The testimony of persons made competent witnesses by this act, may be taken or given by depositions, for the same causes and in the same way as now provided for other witnesses; the expenses of such depositions to be taxed in the bill of costs as in other cases.

Testimony by deposition.

SECTION 3. Nothing in this act contained shall affect in any way the existing laws relating to attesting witnesses to wills. The one hundred and eighty-eighth chapter of the acts of eighteen hundred and fifty-six, is hereby repealed. [*Approved May 30, 1857.*]

Act not to affect.

Act repealed.

AN Act for the equalization of Taxes.

Chap. 306

Be it enacted, &c., as follows :

SECTION 1. Any assessor, or other person, who shall assess the taxes in any town or city in this Commonwealth, who shall omit to take and subscribe the oath prescribed in the second section of the three hundred and nineteenth chapter of the acts of the year eighteen hundred and fifty-three, shall be punished by a fine of ten dollars to be recovered by indictment in any court competent to try the same.

Penalty for omitting the oath, &c.

SECTION 2. The omission to take and subscribe said oath, shall not prevent the collection, by legal process, of any tax which has been otherwise legally assessed.

Omission not to prevent, &c.

Abatement of
taxes.

SECTION 3. No abatement shall be made of the taxes assessed upon any inhabitant of the town where the assessment is made, until he shall have filed with the assessors a list, subscribed by him, of his estate liable to taxation, and made oath that it is a full and accurate list of the same, according to his best knowledge and belief. When such list shall not be filed within the time specified by the assessors for the bringing in of such list, by the inhabitants of the town, no appeal from the judgment of the assessors concerning such abatement shall be sustained by the county commissioners, unless they shall be satisfied that there was good cause why such list was not seasonably brought in.

Act not to affect,
&c.

SECTION 4. This act shall not affect any application for abatement, or suit now actually pending. [*Approved May 30, 1857.*]

RESOLVES,

GENERAL AND SPECIAL.

RESOLVE for the pay of the Legislature and its Officers, monthly. *Chap. 1.*

Resolved, That there be paid out of the treasury of the Commonwealth, to each member of the legislature, at the end of every month during its session, the sum of seventy-five dollars: *provided*, it shall appear by the certificate of the clerk of either house, that the pay of the member for the month, at three dollars per day, amounts to that sum; and each member shall certify to the clerk, in writing, a statement of the number of days he has been in attendance during the month. Also, that there be paid to the clerks, messengers, door-keepers and pages of the two houses, a proportionate sum, upon producing the proper certificate; and his excellency the governor is authorized to draw his warrant on the treasury, for a sum not exceeding one hundred and fifty thousand dollars, for the purpose herein before specified. [*Approved January 31, 1857.*]

Monthly pay of members.

Of clerks, messengers, door-keepers and pages.

RESOLVES concerning the proposed repeal of the Cod Fishing Bounty. *Chap. 2.*

Whereas, Propositions have been made in both branches of the Congress of the United States, to repeal the existing law granting bounties to crews and vessels engaged in the cod fisheries; and *whereas*, the aid which has been extended by government to that ill-paid and unremunerative branch of industry, in the form of a bounty, was designed to encourage youths to enter on a sea-faring life, so that the commercial marine and naval service of the country might be provided with men early trained and accustomed to the discipline and privations of a life at sea; therefore,

Fishing bounty—proposed repeal and design of.

Wisdom of.

Resolved, That the wisdom of this policy has been amply shown, by the encouragement it has afforded to large numbers of energetic young men to enter this service, and who, after a brief apprenticeship, have, many of them passed into the merchant service, and in time of war have carried their country's flag in triumph into every portion of the globe.

Encouragement should not be withdrawn.

Resolved, That the wants of commerce are such as to demand that government should relax no efforts to supply the country with able and experienced seamen, and that no encouragement that has heretofore been extended to induce men to enter upon a sea-faring life, ought now to be withdrawn.

Effect of withholding bounties.

Resolved, That the withholding of these bounties at this time would injuriously affect the best interests of commerce, distress a large number of our most valued and deserving citizens, and greatly impair our national strength, in a point most vital to our honor and influence, among the maritime nations of the earth; and that we earnestly protest against any legislation by congress which shall disturb the existing system, proved by so many years of trial to be fraught with the most happy results.

Protest.

Copies to be transmitted.

Resolved, That his excellency the governor be requested to forward a copy of the foregoing preamble and resolves to each of our senators and representatives in Congress. [*Approved February 5, 1857.*]

Chap. 3.

RESOLVES relating to the celebration of the Birthday of Washington.

Legislature to meet in convention.

Resolved, That the two houses, with their officers, will meet in convention, in the hall of the house of representatives, on Monday, the twenty-third of February, at eleven o'clock, A. M., and that the attendance of the governor, the lieutenant-governor, the executive council, and the heads of departments of the State government, be requested. The president of the Senate shall preside, and the speaker of the house shall read Washington's Farewell Address.

Attendance of the governor, &c., requested.

"Farewell Address" to be read

National salute to be fired.

Resolved, That his excellency the governor be requested to order that a salute of one hundred and twenty-five guns be fired at twelve o'clock, meridian. [*Approved February 21, 1857.*]

Chap. 4.

RESOLVE authorizing the Treasurer to borrow Money in anticipation of the Revenue.

Treasurer authorized to borrow, not exceeding \$300,000.

Resolved, That the treasurer of this Commonwealth be, and he hereby is, authorized, until otherwise directed by the legislature, to borrow, in anticipation of the revenue, such

sum or sums of money as may, from time to time, be necessary for the payment of the ordinary demands upon the treasury within the current financial year; and that he shall repay any sum which he shall borrow, as soon as money sufficient for the purpose, and not otherwise appropriated, shall be received into the treasury: *provided, however*, that the whole amount borrowed by authority hereof and remaining unpaid, shall not at any time exceed the sum of three hundred thousand dollars. [*Approved February 27, 1857.*]

RESOLVE authorizing J. Ingersoll Bowditch, Executor of the last Will and Testament of the late Ephraim Peabody, to sell certain Real Estate of the Testator.

Chap. 5.

Resolved, That J. Ingersoll Bowditch, executor of the last will and testament of Ephraim Peabody, late of Boston, in the county of Suffolk, doctor of divinity, deceased, is hereby authorized and empowered to sell and convey, at public auction, or by private sale, and on such terms and conditions as shall be deemed expedient, all that brick dwelling-house, land and appurtenances, in Chambers Street, in said Boston, which are particularly described in the deed of John P. Tarbell and Catherine Elizabeth Tarbell, his wife, to said testator, dated March twenty-eighth, eighteen hundred and fifty-four, and recorded with Suffolk Deeds, in lib. 660, fol. 156; said premises being then and now subject to a mortgage for ten thousand dollars and interest, as set forth in said deed; and to execute and deliver a good and sufficient deed thereof to the purchaser, his heirs and assigns, free and discharged of and from all trusts, and without any obligation to see to the application of the purchase-money; he, said Bowditch, executor as aforesaid, first giving a bond, with surety or sureties, to the judge of probate for said county, for the time being, in such penalty as he shall prescribe, conditioned faithfully to hold, apply and dispose of the net proceeds of such sale according to law, and the provisions of said last will and testament. [*Approved March 9, 1857.*]

Authority to sell and convey real estate.

Executor to give bonds, &c.

RESOLVES in relation to the recent death of Elisha Kent Kane.

Chap. 6.

Whereas, It has pleased the Great Disposer of events to remove, by death, our distinguished countryman, Doctor Elisha Kent Kane, late of Philadelphia; and, *whereas*, the eminent services which the deceased has rendered to science, by the explorations and discoveries to which his enterprise, his courage and his persevering zeal have largely contributed,

Preamble.

are honorable to the American name,—have added to the common fame of our whole country,—and are appreciated by his fellow-citizens of Massachusetts, not less than by those of his native State; therefore,

Expression of regret.

Resolved, By the Senate and House of Representatives of Massachusetts, that we have heard with deep regret, of the death of the eminent explorer and discoverer, Doctor Elisha Kent Kane.

Public services of deceased.

Resolved, That the public services, the personal devotion and self-sacrifice, and the valuable geographical and scientific investigations of the deceased, have done honor to the American name, have added to the fame of our common country, and reflect credit upon the human race by their elevating and ennobling influences.

Loss to the cause of science.

Resolved, That the cause of science, which has been so largely benefited by the labors and the sufferings resulting in his early death, has lost in him an important auxiliary and an untiring and devoted friend.

Proffer of sympathy, &c.

Resolved, That we tender to the Commonwealth of Pennsylvania, which has lost a cherished and honored son, and to his surviving family and personal friends, the sincere expression of our appreciation of the past services of the deceased, and of our sympathy with them in this our common loss.

Transmission of copies.

Resolved, That his excellency the governor of this Commonwealth, cause certified copies of the above resolutions to be transmitted to the governor of Pennsylvania, and to the family of the deceased. [*Approved March 12, 1857.*]

Chap. 7.

RESOLVE in favor of the Families of Solon H. Tenney, late Warden, and Galen C. Walker, late Deputy-Warden, of the State Prison.

\$2,500 to the widow and mother of Solon H. Tenney.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to the widow and mother of Solon H. Tenney, late warden of the state prison, the sum of twenty-five hundred dollars, to wit. fifteen hundred dollars to the widow, and one thousand dollars to the mother; and to the widow of Galen C. Walker, late deputy-warden of the prison, the farther sum of twenty-five hundred dollars: and the governor is hereby authorized to draw his warrant accordingly. [*Approved March 16, 1857.*]

\$2,500 to the widow of Galen C. Walker.

Chap. 8.

RESOLVE on the Petition of Samuel Houghton, Agent of the Proprietors of Roxbury, Maine.

Waiver of condition in deed from the Commonwealth to John Derby.

Resolved, That so much of the conditions contained in a deed of the Commonwealth of Massachusetts to John Derby, of Boston, signed by Nathaniel Wells and others, a committee of said Commonwealth, dated December ninth, in the

year one thousand seven hundred and ninety-four, and recorded with Cumberland deeds, book twenty-three, pages one and two, as relates to the settlement of thirty families within six years, be, and the same is hereby waived; but this waiver shall in no way affect the other conditions and obligations of said deed. [*Approved March 17, 1857.*]

RESOLVE on the Petition of Charles S. Breed and others.

Chap. 9.

Resolved, For reasons set forth in said petition, that there be allowed and paid out of the treasury of the Commonwealth, to Charles S. Breed and Company, the sum of one hundred dollars, and that the governor be authorized to draw his warrant therefor accordingly. [*Approved March 17, 1857.*]

§100 to Charles S. Breed & Co.

RESOLVE granting Taxes for the several Counties.

Chap. 10.

Resolved, That the sums placed against the names of the several counties in the following schedule, be, and hereby are granted as a tax for each county respectively, to be assessed, paid, collected and applied according to law, namely:—

Sums assessed.

Essex—Ninety-eight thousand four hundred dollars:

Middlesex—One hundred and four thousand and eighty dollars:

Norfolk—Fifty-five thousand dollars:

Plymouth—Twenty-five thousand dollars:

Barnstable—Eight thousand five hundred and fifty-five dollars:

Dukes—Two thousand five hundred dollars:

Bristol—Fifty thousand dollars:

Worcester—Ninety thousand dollars:

Franklin—Eighteen thousand dollars:

Hampshire—Twenty thousand dollars:

Hampden—Thirty-three thousand dollars:

Berkshire—Twenty-two thousand dollars. [*Approved March 17, 1857.*]

RESOLVE in favor of the late Acting-Clerk of the House of Representatives.

Chap. 11.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to William E. P. Haskell, the sum of thirty dollars, in full payment for his services as acting-clerk of the house of representatives, during the organization thereof, at the commencement of the present session, and that a warrant be drawn accordingly. [*Approved March 17, 1857.*]

§30 to acting-clerk, during the organization of the House.

Chap. 12.

RESOLVE on the Petition of E. R. Livingston and others.

§350 to E. R.
Livingston :§152 to S. N. Gifford ;
§213 to W. A. Haskell ;
§246 to H. P. Hanson, for services on the general index of the journals of house.

Resolved, That there be allowed and paid, out of the treasury of this Commonwealth, to E. R. Livingston, three hundred and fifty dollars ; to S. N. Gifford, one hundred and fifty-two dollars ; to W. A. Haskell, two hundred and thirteen dollars ; to H. P. Hanson, two hundred and forty-six dollars ; said sums to be in full payment for services heretofore rendered upon the general index to the journals of the house of representatives, and the catalogue of papers on file in the house ; and his excellency the governor is hereby authorized to draw his warrant accordingly. [*Approved March 19, 1857.*]

Chap. 13.

RESOLVE in favor of the Town of Huntington.

§359.85 to the town of Huntington, for support of state pauper.

Resolved, That there be allowed and paid, from the treasury of the Commonwealth, to the town of Huntington, the sum of three hundred and fifty-nine dollars and eighty-five cents, being one-half the sum expended by said town for the support of Patrick Kelley, a state pauper ; and the governor is hereby authorized to draw his warrant accordingly. [*Approved March 25, 1857.*]

Chap. 14.

RESOLVE on the petition of Benjamin Smith, a Soldier of the Revolution.

Four semi-annual payments of \$50 each, authorized.

Resolve to have no effect after decease of petitioner

Resolved, That there be allowed and paid out of the treasury of this Commonwealth, to Benjamin Smith, a soldier of the revolution, (now resident in Shrewsbury.) four semi-annual payments of fifty dollars each : the first payment shall be due and payable the first day of May, eighteen hundred and fifty-seven. Should the said Smith decease previous to said first day of May, or thereafter during the interval of payments named above, then this resolve shall have no further effect, and no further payments shall be made thereunder. The governor is authorized to draw his warrant accordingly. [*Approved March 25, 1857.*]

Chap. 15.

RESOLVE concerning the Quartermaster-General's Department.

§4,550 appropriated to defray expenses of the department.

Resolved, That the sum of four thousand five hundred and fifty dollars be, and the same hereby is appropriated, to defray the expenses of the quartermaster-general's department, for the current year ; and that warrants be drawn accordingly. [*Approved March 25, 1857.*]

RESOLVE to complete the Index to the Journals and Catalogue of the Papers, of the House of Representatives. *Chap. 16.*

Resolved, That the clerk of the house of representatives cause to be completed, under his supervision, within the present political year, the general index already begun to the journals of the house of representatives, and also the catalogue already begun of the papers on the files of the house; said work to be finished in the same style and manner as the portions which have already been made: and there shall be allowed and paid out of the treasury the sum of fifteen hundred dollars in full and entire compensation for the completion of the whole work, both index and catalogue as aforesaid to the close of the year eighteen hundred and fifty-five. And said sum of fifteen hundred dollars shall be paid to the said clerk of the house of representatives, when the whole work is completed, as aforesaid. And his excellency the governor is hereby authorized to draw his warrant accordingly. [*Approved March 27, 1857.*]

Index to Journals and Catalogue of Papers on file, to be completed.

In what style.

\$1,500 appropriated for the whole work.

RESOLVE on Petition of Calvin Jennings and J. S. Montague.

Chap. 17.

Resolved, For reasons set forth in the petition of Calvin Jennings and J. S. Montague, and in accordance with the manifest spirit of the last will and testament of the late Reverend Micah Stone, of Brookfield, that Calvin Jennings and J. S. Montague be, and they hereby are, empowered and authorized to sell and convey, either at private sale or by public auction, the real estate described in said petition; and the said Calvin Jennings and J. S. Montague, as trustees of the Evangelical Church in Brookfield, in the county of Worcester, or their successors in said office, are empowered to convey said premises in fee simple: *provided*, the said Calvin Jennings and J. S. Montague, or their successors in office, shall first give bond to the judge of probate for the county of Worcester, for the time being, in such sum and with such surety or sureties as the said judge shall approve, conditioned to receive the net proceeds of such sale, and, as soon as may be, invest the same in productive real estate, or in such dividend paying shares or stocks, as in their judgment shall be most safe and productive, and most conducive to the interest of said Evangelical Church and Society: *provided, further*, that the said Calvin Jennings and J. S. Montague, as trustees aforesaid, or their successors in office, shall, from time to time, as they become due, collect and receive all rents, income, and dividends, on such estate, shares and stocks, and pay the same to the treasurer of the said Evangelical Church, to be appropriated for the support

Authority to sell and convey real estate.

Proviso

Additional proviso.

of its pastor for the time being, in accordance with the intent and spirit of the aforesaid will and testament. [*Approved March 27, 1857.*]

Chap. 18. RESOLVES providing for the Contingent Expenses of the Council, Legislature, and Offices in the State House.

§847 to the sergeant-at-arms, for arrearages of contingent expenses.

Resolved, That there be paid out of the treasury of the Commonwealth, to the sergeant-at-arms, the sum of eight hundred and forty-seven dollars, being the balance due him for contingent expenses, which accrued prior to the first of January, one thousand eight hundred and fifty-seven, and not covered by previous appropriations.

§2,000 for contingent expenses of council, general court, offices in state house, &c.

Resolved, That there be paid out of the treasury of the Commonwealth, to the sergeant-at-arms, a sum not exceeding two thousand dollars, to enable him to defray certain contingent expenses of the council, general court, offices in the state house, and for the care of the grounds and buildings during the year commencing January first, and ending December thirty-first, one thousand eight hundred and fifty-seven; and the governor is hereby authorized to draw his warrants, from time to time, accordingly. [*Approved March 28, 1857.*]

Chap. 19. RESOLVE for the payment of certain General Expenses, not otherwise provided for.

Accounts for expenses incurred by order of either branch of the legislature, &c., to be approved by presiding officer.

Resolved, That all accounts for expenditures incurred or services rendered, from time to time, under orders of either branch of the legislature, including those which have already been passed at the present session, and for which no provision is made by previous acts and resolves, shall be approved by the presiding officer of that branch by which such orders have been or may be passed; and upon such approval the auditor is authorized to audit and certify such accounts, and the governor to draw his warrants for the payment of the same. [*Approved March 28, 1857.*]

Chap. 20. RESOLVE in favor of Edward Lamb.

§576.53 allowed for defending a suit brought by Lawrence, Richards & Co.

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to Edward Lamb, the sum of five hundred and seventy-six dollars and fifty-three cents, in full of his claim for defending a suit brought against him, by Lawrence, Richards and Company, and that the governor be authorized to draw his warrant accordingly [*Approved April 2, 1857.*]

RESOLVES in favor of the State Farm, at Westborough.

Chap. 21.

Resolved, That the sum of six thousand dollars be, and the same is hereby appropriated for improvements, for testing the true value of fertilizers, and the comparative profits of the different breeds of animals; for meeting the current expenses of the State Farm at Westborough, and to enable the board of agriculture to execute properly the contract with the trustees of the State Reform School; but no part of said sum shall be expended in improvements, or on contracts which will require further appropriations for their completion.

\$3,000 appropriated for improvements, &c.

Improvements which will require further appropriations inhibited.

Resolved, That the governor be, and he is hereby authorized to draw his warrant for the above sum, to remain in the treasury, subject to the drafts of the treasurer of the board of agriculture, as the exigencies of the farm may require. [Approved April 2, 1857.]

RESOLVE authorizing the Board of Education to appoint Agents.

Chap. 22.

Resolved, That the board of education be, and they are, hereby authorized to appoint one or more suitable agents, to visit the cities and towns of the Commonwealth, for the purpose of inquiring into the condition of the schools, conferring with teachers and committees, lecturing upon subjects connected with education, and, in general, of giving and receiving information, in the same manner as the secretary of the board would do if he were present; and to defray the expense of the same, for three years, the sum of eight thousand dollars is hereby appropriated: *provided*, that not more than four thousand dollars shall be expended in any one year; and, *also provided*, that the sum expended in any one year, when added to the appropriations already established by law, and chargeable to one-half of the income of the school fund, shall not make a sum exceeding half the income of said fund: and his excellency the governor, with the advice and consent of the council, is hereby authorized to draw his warrant accordingly. [Approved April 3, 1857.]

Agents to visit cities, towns, &c., may be appointed

\$8,000 appropriated.

Proviso.

Additional proviso.

RESOLVE authorizing the Sale of certain Real Estate formerly belonging to Benjamin P. Homer, deceased.

Chap. 23.

Resolved, That Edward Codman and Edward Blake, both of Boston, of the county of Suffolk, esquires, be, and they hereby are, authorized and empowered to sell and convey at public auction, or by private sale, and on such terms and conditions as shall be deemed expedient, all that dwelling-house, stable, land and appurtenances in said Boston, whereof the late Benjamin P. Homer died seized, bounded southerly by Beacon Street, thirty-two feet; westerly by Walnut Street, two

Authority to sell and convey real estate.

hundred feet; northerly on the estate devised by said Homer to certain trustees, for his daughter, Mrs. Dixon, forty-nine feet,—and easterly by land and house of which Benjamin B. Mussey has lately died seized, two hundred feet, or however otherwise bounded or described; and to execute and deliver good and sufficient deed or deeds thereof, to the purchaser or purchasers, his or their heirs and assigns, free and discharged of and from all trusts, and without any obligation to see to the application of the purchase money; they, the said Codman and Blake, first giving bond to the judge of probate for Suffolk county, with such surety or sureties, and in such penalty as he may prescribe, conditioned faithfully to hold, apply, pay and distribute the net proceeds of the sales of said real estate according to law: and this resolve shall take effect from and after its passage. [*Approved April 6, 1857.*]

Bonds to be given.

Chap. 24. RESOLVES authorizing the Publication of Laws and Official Information.

General laws and official information,—how published.

Resolved, That the secretary of the Commonwealth be, and hereby is, authorized and instructed to publish, such general laws as may be enacted by the legislature, from time to time, and all other official information intended for the public, in such paper or papers, published within the Commonwealth, as he may select for such purpose: *provided*, the annual expense of the said publication shall not exceed the sum of three hundred dollars: and the governor is hereby authorized to draw his warrant accordingly.

Proviso.

Resolve of 1855 repealed.

Resolved, That chapter eleven of the Resolves of eighteen hundred and fifty-five, entitled, “Resolve in favor of constituting the Boston Daily Bee and the American Patriot the official organs,” is hereby repealed. [*Approved April 7, 1857.*]

Chap. 25. RESOLVES relating to the proposed Amendments of the Constitution.

Resolved, That the following articles of amendment of the Constitution, having been agreed to by the last and present general courts, and published in the manner required by the Constitution, be submitted to the people for their ratification and adoption.

FIRST ARTICLE OF AMENDMENT.

No person who cannot read and write shall vote or hold office.

No person shall have the right to vote, or be eligible to office under the Constitution of this Commonwealth, who shall not be able to read the Constitution in the English language, and write his name: *provided, however*, that the

Proviso.

provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect.

SECOND ARTICLE OF AMENDMENT.

A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the Commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of representatives for the periods between the taking of the census.

Census for apportionment of representatives, &c.

The house of representatives shall consist of two hundred and forty members, which shall be apportioned by the legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the Commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the Commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk,—or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation

Two hundred and forty members,—how apportioned.

Representative districts,—how formed.

assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the Commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof, and the number of legal voters therein, shall be returned by the board, to the secretary of the Commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law. Not less than one hundred members of the house of representatives shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

THIRD ARTICLE OF AMENDMENT.

A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the Commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city, said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the Commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: *provided, however*, that no town, or ward of a city, shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more coun-

Representative must be an inhabitant of district, &c.

Return to be made of description, number, &c., of districts.

Meetings, how called and conducted.

One hundred members a quorum.

Census for apportionment of senators.

State to be divided into forty single senatorial districts.

ties, into one district. Each district shall elect one senator, who shall have been an inhabitant of this Commonwealth five years at least, immediately preceding his election, and at the time of his election, shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the Commonwealth. Not less than sixteen senators shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

Senator must be an inhabitant of district, &c.

Sixteen senators a quorum.

Resolved, That the people shall be assembled for the purpose aforesaid, in their respective cities and towns, in meetings to be legally warned, and held on the first day of May next, at which meetings all the inhabitants, qualified to vote for senators and representatives in the general court, may give in their votes, by ballot, for or against each of the said articles of amendment; and the same officers shall preside in the said meetings as in the meetings for the choice of senators and representatives, and shall, in open meeting, receive, sort, count and declare the votes of the inhabitants, for and against the same; and the said votes shall be recorded by the clerks of said cities and towns, and true returns thereof shall be made out, under the hands of the mayors and aldermen of the several cities, and of the selectmen or a major part of them, and of the clerks of the said cities and towns, respectively, and sealed up and delivered to the sheriff of the county within three days after the said meeting, to be by him transmitted to the office of the secretary of the Commonwealth within seven days after receiving the same; or the said mayors and aldermen, and selectmen, respectively, shall themselves transmit the same to the said office within ten days after the said meetings: *provided*, that in the several cities, the meetings held under this resolve, shall be conducted according to the provisions of the acts establishing the same, and of the several acts in addition thereto. The said meetings shall be deemed to be legally warned or notified, if due notice thereof be given on or before the twenty-fourth day of April next previous thereto.

Meetings for acting on amendments.

Resolved, That each of the said articles shall be considered as a distinct amendment, to be adopted in the whole, or rejected in the whole, as the people shall think proper. And every person, qualified to vote as aforesaid, may express his opinion on each article as designated by its appropriate number, without specifying in his ballot the contents of the article, and by annexing to each number the word Yes, or

Amendments, how to be considered, and voted on

No, or any other words of the same import; but the whole shall be written or printed on one ballot, in substance as follows, to wit:—Amendments—article first, yes or no; article second, yes or no; article third, yes or no. And every article that shall appear to be approved by a majority of the persons voting thereon, shall be deemed and taken to be ratified and adopted by the people.

Governor and council to examine returns.

Resolved, That his excellency the governor, and the council, shall, forthwith, open and examine the votes returned as aforesaid; and if it shall appear that said articles of amendment, or either of them, have been approved by a majority of the persons voting thereon, according to the votes returned and certified as aforesaid, the same shall be enrolled on parchment and deposited in the secretary's office as a part of the constitution of this Commonwealth, and shall be published in immediate connection therewith, numbered according to their numerical position, with the articles of amendment of the constitution heretofore adopted, in all future editions of the laws of this Commonwealth, printed by public authority.

Amendments to be enrolled, &c.

Proclamation, upon adoption of amendments.

Resolved, That his excellency the governor be, and he hereby is, authorized and requested to issue his proclamation forthwith, after examination of the votes returned as aforesaid, reciting the said articles of amendment, or either of them, and announcing that said articles of amendment, or either of them, have been duly adopted and ratified by the people of this Commonwealth, and have become a part of the Constitution thereof, and requiring all magistrates and officers, and all citizens of the said Commonwealth, to take notice thereof, and govern themselves accordingly; or that the said articles of amendment, or either of them, have been rejected, as the case may be.

Secretary to transmit copies, &c., to cities and towns.

Resolved, That a printed copy of these Resolves, including the said articles of amendment, and blank forms of the returns of votes on each of said articles, shall be transmitted, as soon as may be, by the secretary of the Commonwealth, to the mayors and aldermen of the several cities, and to the selectmen of the several towns, of this Commonwealth. [Approved April 8, 1857.]

Chap. 26.

RESOLVE in favor of the Herring Pond Indians.

\$900 to aid in the erection of a house of worship.

Resolved, That for reasons set forth in the petition, there be allowed and paid, out of the treasury of the Commonwealth, to the treasurer of the Herring Pond Indians, the sum of nine hundred dollars, to aid in the erection of a

house of religious worship, for the benefit of said Indians; and that a warrant be drawn therefor accordingly. [*Approved April 10, 1857.*]

RESOLVE in aid of the Troy Indians.

Chap. 27.

Resolved, That for reasons set forth in the petition, there be paid out of the treasury of the Commonwealth, to Benjamin F. Winslow, agent of the Troy Indians, one hundred and sixty dollars, for the purchase of two or more pews in the meeting-house of the First Christian Society, in North Westport, in this State, for the use of said Indians; and that a warrant be drawn therefor accordingly. [*Approved April 10, 1857.*]

§160 for the purchase of pews in meeting-house.

RESOLVE in favor of Samuel H. Reed.

Chap. 28.

Resolved, That for reasons set forth in the petition of Samuel H. Reed, of Greenfield, there be paid to him, from the treasury of the Commonwealth, the sum of fifty-five dollars, and that the governor be authorized to draw his warrant accordingly. [*Approved April 11, 1857.*]

§55 for Samuel H. Reed.

RESOLVE authorizing Lucy Davis and George P. Davis, Executors of the Will of Samuel Davis, deceased, to sell Real Estate of the Testator.

Chap. 29.

Resolved, That Lucy Davis and George P. Davis, executors of the last will and testament of Samuel Davis, late of Boston, in the county of Suffolk, deceased, are hereby authorized and empowered to sell and convey, at public auction or private sale, and on such terms and conditions as shall be deemed expedient, all that mansion house numbered twenty, in Dix Place, in said Boston, with the land under and around the same; and also all that farm situated in Walpole, in the county of Norfolk, containing about one hundred and seventy-five acres, bounded northerly on lands of Ellis Clapp, southerly on lands of Smith Ware, easterly on lands of Plimpton,—being estates of which said Samuel died seized, and which are specified in his said last will and testament; and to execute and deliver a good and sufficient deed and deeds, of each and both of said estates, or any part thereof, to the purchaser or purchasers, his and their heirs and assigns, free and discharged of and from all trusts, and without any obligation to see to the application of the purchase money, they, the said Lucy and George P., first giving a bond, with surety or sureties, to the judge of probate, for said county of Suffolk, for the time being, in such penalty as he shall prescribe, conditioned faithfully to hold, apply

Authority to sell and convey real estate in Boston.

And also in Walpole.

Executors to give bonds, &c.

and dispose of the net proceeds of such sale according to law, and the provisions of said last will and testament. [Approved April 11, 1857.]

Chap. 30.

RESOLVE on the Petition of the Overseers of Gay Head.

§500 for the erection of a school-house at Gay Head.

Resolved, That for reasons set forth in their petition, there be allowed and paid, out of the treasury of the Commonwealth, to Isaac D. Rose, Aaron Cooper, 2d, and Samuel Peters, Overseers of the Indians and people of color at Gay Head, the sum of five hundred and sixty-five dollars, for the purpose of erecting a school-house at Gay Head; and the governor is hereby authorized to draw his warrant for that sum. [Approved April 14, 1857.]

Chap. 31.

RESOLVE on the Petition of E. B. Stoddard.

§166.66 to E. B. Stoddard.

Resolved, For reasons set forth in said petition, that there be allowed and paid out of the treasury of the Commonwealth, to E. B. Stoddard, the sum of one hundred and sixty-six dollars and sixty-six cents; and the governor is hereby authorized to draw his warrant therefor, accordingly. [Approved April 18, 1857.]

Chap. 32.

RESOLVE on the Petition of Charles Brigham.

Authority to Charles Brigham, trustee, to sell and convey real estate.

Resolved, For reasons set forth in said petition, that Charles Brigham, of said Grafton, trustee for the Grafton or Hassanamisco Tribe of Indians, be, and hereby is, authorized and empowered to sell, at public auction or private sale, that certain real estate named in said petition, being the same which was assigned by said trustee, to John Hector, by virtue of a Resolve of this Commonwealth, approved by the governor on the ninth day of April, in the year eighteen hundred and forty-six, situated in said Grafton, containing five acres of land, more or less, and now occupied by said Hector; and to convey said real estate, by deed, duly executed and acknowledged, and apply the proceeds of such sale to the purchase of other real estate in the city of Worcester, in said county, which will better accommodate said Hector and family, and receive a deed of the same, duly and legally executed, as a trustee, for the benefit of said John Hector and his heirs, forever: *provided*, that said trustee shall first give bonds, with sufficient surety or sureties, to the judge of probate for said county, for the faithful execution of the powers hereby conferred. [Approved April 18, 1857.]

Proceeds of sale, how to be applied.

Proviso.

RESOLVE in favor of Samuel Cook.

Chap. 33.

Resolved, That there be paid out of the treasury of this Commonwealth, to Samuel Cook, of Houlton, in the State of Maine, the sum of one hundred and eighteen dollars thirty-three cents, for services rendered to the Commonwealth, during the administration of George W. Coffin, esquire, as Land Agent, and that the governor be authorized to draw his warrant for the payment of the same. [Approved April 18, 1857.]

\$118 to Samuel Cook, of Houlton, Maine.

RESOLVE in favor of Lucas and Mayberry.

Chap. 34.

Resolved, That for reasons set forth in the petition of Lucas and Mayberry, of Edgartown, there be allowed and paid out of the treasury of the Commonwealth, to the petitioners, the sum of seventy dollars and seventy-nine cents; and the governor is hereby authorized to draw his warrant accordingly. [Approved April 21, 1857.]

\$79.79 to Lucas and Mayberry, of Edgartown.

RESOLVE in favor of the Massachusetts State Teachers' Association.

Chap. 35.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to the Massachusetts State Teachers' Association, the sum of nine hundred dollars, in three annual installments, of three hundred dollars each, on condition that the said association will furnish a copy of the Massachusetts Teacher, to each school committee in the several cities and towns in the State, for the term of three years, for the benefit of present and future school committees, and that the governor draw his warrants accordingly. [Approved April 21, 1857.]

\$900 allowed on condition that school-committees are furnished with the "Massachusetts Teacher."

RESOLVE in favor of Ralph K. Jones.

Chap. 36.

Resolved, That for reasons set forth in the petition, there be allowed and paid out of the treasury of the Commonwealth, to Ralph K. Jones, the sum of forty-two dollars and fifty-five cents, and that the governor be authorized to draw his warrant accordingly. [Approved April 24, 1857.]

\$42.55 to Ralph K. Jones.

RESOLVE on the Petition of Samuel N. Tenney.

Chap. 37.

Resolved, For reasons set forth in said petition, that Samuel N. Tenney, of Chelsea, in the county of Suffolk, gentleman, be, and he hereby is authorized and empowered to sell at public auction, or private sale, and upon such terms and conditions as he shall deem expedient, the parcels of land mentioned in said petition, and of which Samuel Tenney, late of Boston, in said county, gentleman, died seized,

Authority to sell and convey real estate, in Boston; and also in Newbury.

namely : a parcel of land in said Boston, with the buildings thereon, on the easterly side of Congress Street, late Atkinson Street, as described in a deed of Elijah Loring, to said deceased, recorded with Suffolk deeds, liber three hundred eighty, folio two hundred fifty ; also, a parcel of land, with the buildings thereon, on Salem Street, in said Boston, as described in a deed of the Boston Asylum and Farm School for Indigent Boys, to said deceased, recorded with Suffolk deeds, liber six hundred fifty-four, folio one hundred thirty-one ; also a parcel of land situated in Newbury, in the county of Essex, near the Byfield Meeting-house, as described in a deed of Daniel S. Caldwell, to said deceased, recorded with Essex deeds, liber four hundred fifty-three, folio two hundred fifty-two ; and to execute and deliver good and sufficient deeds thereof to the several purchasers, their heirs and assigns, free and discharged from all trusts, and without any obligation to see to the application of the purchase money : *provided, however*, that the said Samuel N. Tenney shall first give bond to the judge of probate, for said county of Suffolk, for the time being, in such sum and with such surety or sureties, as he shall approve, conditioned faithfully to hold, account for, pay over and distribute the net proceeds of all such sales according to law, and to the provisions of the last will and testament of said Samuel Tenney. [*Approved April 25, 1857.*]

Bonds to be given.

Chap. 38.

RESOLVE ON the Petition of the First Baptist Society, in Southbridge.

Authority to sell and convey real estate.

Resolved, That for reasons set forth in the petition of the First Baptist Society, in Southbridge, Holdridge Ammidown, agent of said society, be authorized to sell, at public or private sale, certain real estate described in said petition, and give a proper deed for the conveyance of the same, and receive and pay to the treasurer of said society, the proceeds thereof, for the purpose of building or purchasing a parsonage for said society. [*Approved April 25, 1857.*]

Chap. 39.

RESOLVE ON the Petition of the Selectmen of Dorchester.

Authority to sell and convey real estate.

Resolved, That Ebenezer Eaton, Edward H. R. Ruggles and Lewis F. Pierce, selectmen of the town of Dorchester, are hereby authorized, acting in said capacity, for and in behalf of the inhabitants of said town, to sell and convey, at public auction or private sale, and on such terms as shall be deemed expedient, a certain piece of land in said Dorchester, containing about five acres, formerly the property of one Luke Trott, and by him conveyed to said town, by his deed bearing date June the sixth, in the year seventeen

hundred and ninety-six, recorded with Norfolk County Deeds, liber sixth, folio sixty-four. Said land is bounded and described as follows, to wit: south-westerly upon land formerly of Luke Trott, deceased; north-westerly by a brook; easterly and southerly by land formerly of one Lemuel Crane, deceased. They are further, in like manner, authorized and empowered to make, execute and deliver, a good and sufficient deed thereof, to the purchaser, his heirs and assigns, free and discharged of and from all trusts, and without any obligation to see to the application of the purchase money; they, the said town, first giving their bond to the judge of probate for the county of Norfolk, to be executed for them by said selectmen, in a penalty equal to double the amount of such purchase money, conditioned faithfully to hold, apply, pay and distribute the net proceeds of such sale according to law. [*Approved April 25, 1857.*]

Bonds to be given.

RESOLVE in aid of the Christiantown and Chapequiddic Indians.

Chap. 40.

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to Barnard C. Marchant, guardian of the Christiantown and Chapequiddic Indians and people of color, in the county of Dukes, the sum of one hundred dollars, to be expended in repairs upon the church and school-house of said Chapequiddic Indians and people of color; the sum so granted to be accounted for by said guardian, in the same way in which he accounts for the other property of his wards; and the governor is hereby authorized to draw his warrant for the said sum of one hundred dollars. [*Approved April 27, 1857.*]

\$100 for repairs on church and school-house.

RESOLVE authorizing the removal of the Remains of the Dead from a Burial Ground in Natick.

Chap. 41.

Resolved, That the inhabitants of the town of Natick are hereby authorized, at the expense of the town, to remove the remains of the dead from the burial ground near the station of the Boston and Worcester Railroad, in said Natick, to Dell Park Cemetery, in said Natick, or to such other burial ground or grounds within said town, as the relatives and friends of those whose remains shall be removed may designate: *provided*, that there shall be chosen, at a legal meeting of the inhabitants of said town, qualified to vote in town affairs, within two years from and after the passage of this resolve, a committee of three, under whose supervision the said removal shall be effected: *provided, further*, that the remains of the dead shall be reinterred in a suitable and proper manner, due regard being paid to the relationship

Removal of dead authorized.

Proviso.

Additional proviso.

Third proviso.

and families of the deceased; and the relatives of those whose remains shall be removed, shall have the right to assist in the removal: *provided, also*, that the committee appointed as aforesaid, make a removal of all the known remains of the dead, and remove all the tombs and monuments therein, and rebuild or replace the same in a suitable manner, at the expense of the town: and the relatives and friends of those whose remains shall be removed, shall have the right to be heard before said committee, as to the selection of places and lots for reinterments. [*Approved April 30, 1857.*]

Chap. 42.

RESOLVE on the Petition of Sidney Bartlett, Executor of the last Will and Testament of Benjamin B. Mussey, deceased.

Authority to sell and convey real estate.

Resolved, For the reasons set forth in said petition, that Sidney Bartlett, executor of the last will and testament of Benjamin B. Mussey, late of Newton, in the county of Middlesex, bookseller, deceased, be, and he hereby is, authorized and empowered to sell and convey, at public auction, or by private sale, and on such terms and conditions as shall be by him deemed expedient, the dwelling-house, land and appurtenances formerly belonging to Samuel Appleton, deceased, in Beacon Street and Walnut Street, in the city of Boston, and all and singular the other parcels of real estate, in said Boston, and elsewhere in said Commonwealth, whereof said Benjamin B. Mussey died seized, or in or to which he had any right, title or interest at the time of his decease; and to execute and deliver good and sufficient deeds thereof, to the several purchasers of the same, their respective heirs and assigns, free and discharged of and from all trusts, and without any obligation on the part of such purchasers to see to the application of the purchase money,—he, the said Bartlett, executor as aforesaid, first giving a bond, with surety or sureties, to the judge of probate for the county of Middlesex, for the time being, in such penalty as he shall prescribe, conditioned faithfully to hold, apply and dispose of the net proceeds of all and singular such sales, according to law, and to the provisions of said last will and testament. This Resolve shall take effect from and after its passage. [*Approved May 4, 1857.*]

Executor to give bonds.

Chap. 43.

RESOLVE on the Petition of Lydia Barrows and another.

Judge of probate authorized to appoint trustee to sell and convey real estate.

Resolved, For reasons set forth in the petition of Lydia Barrows and Horace Granville Barrows, that the judge of probate, for the county of Suffolk, be, and hereby is authorized and empowered to appoint some suitable person as

trustee to sell and convey at private sale, and to execute all necessary deeds and instruments to convey in fee simple, certain real estate, situate in the northerly part of the city of Boston, in said county of Suffolk, on a street called Bennet Street, which said estate was devised and bequeathed by the last will and testament of Rufus L. Barrus, of said Boston, physician, deceased, to Lydia Barrows, during her life or widowhood, then to the said Horace Granville Barrows, during his life, and then to the heirs of the said Horace Granville, in fee simple, said property being described in said will, recorded in the probate office in said county of Suffolk, and to reinvest the proceeds thereof in other real estate in the more southerly part of the city of Boston, to be subject to the said uses and ultimate disposal, as is provided in said will of said Rufus L. Barrus, deceased, respecting the real estate herein above described: *provided*, that said trustee shall first give a bond to the judge of probate for said county of Suffolk, with surety or sureties satisfactory to said judge of probate, that he will faithfully execute the powers hereby granted to him, to wit, to sell and reinvest as aforesaid. [*Approved May 4, 1857.*]

Proceeds to be reinvested, &c.

Trustee to give bonds, &c.

RESOLVE in favor of the State Reform School for Boys, at Westborough.

Chap. 44.

Resolved, That the sum of forty-four thousand dollars be, and the same is hereby appropriated, to be applied by the trustees of the State Reform School, at Westborough, for the support of that institution, and that the governor draw his warrant accordingly. [*Approved May 4, 1857.*]

\$44,000 appropriated.

RESOLVE on the Petition of Henry P. Sturgis and another.

Chap. 45.

Resolved, That Henry P. Sturgis and James Sturgis, both of Boston, in the county of Suffolk, and Commonwealth aforesaid, merchants, be, and they hereby are authorized and empowered to sell and convey, at public auction or by private sale, and on such terms and conditions as shall be deemed expedient, a certain piece of land, with two dwelling-houses thereon, bounded on Bridge Street, at the westerly part of said Boston; beginning at the corner of the brick wall next to the Massachusetts General Hospital; thence southerly, forty-six feet on said street, to the centre of the south wall; thence running easterly, on land now or late of Jonathan Whitney, fifty-five feet, to a five feet passage-way, with a privilege to pass and repass therein, and also a privilege to the pump and well; thence northerly on said passage-way, thirty-three feet three inches, to said hospital land; thence westerly on the same about fifty-six feet, to the place of beginning;

Authority to sell real estate.

being the same premises which were devised to Susan Sturgis by Samuel Parkman, formerly of said Boston, esquire, deceased, and conveyed by the deed of Sarah Parkman, executrix, dated July first, eighteen hundred and twenty-four, and recorded with Suffolk deeds, lib. 373, fol. 245; the said premises having been conveyed to said Samuel Parkman by Jonathan Whitney, by deed dated the twenty-fourth day of April, eighteen hundred and twenty, and recorded with Suffolk deeds, lib. 267, fol. 184,—or however otherwise bounded or described; and to execute and deliver good and sufficient deed or deeds thereof to the purchaser or purchasers, his or their heirs and assigns, free and discharged of and from all trusts, and without any obligation to see to the application of the purchase money; they, the said Henry P. and James Sturgis, first giving bond to the judge of probate, for Suffolk county, with such surety or sureties, and in such penalty, as he may prescribe, conditioned faithfully to hold, apply, pay and distribute the net proceeds of the sales of said real estate according to law. [*Approved May 4, 1857.*]

Bonds to be given.

Chap. 46. RESOLVE concerning the State Industrial School for Girls, at Lancaster.
 §13,500 appropriated. *Resolved*, That the sum of thirteen thousand and five hundred dollars be, and the same hereby is appropriated to be applied by the trustees of the State Industrial School for Girls, at Lancaster, for the support of said institution; and the governor is hereby authorized to draw his warrant accordingly. [*Approved May 4, 1857.*]

Chap. 47. RESOLVE in favor of John H. Wilkins, H. B. Rogers and Francis B. Fay.
 §3,000 for services as commissioners of Reform School for Girls. *Resolved*, That there be allowed and paid, out of the treasury of the Commonwealth, to John H. Wilkins, H. B. Rogers and Francis B. Fay, the sum of three thousand dollars, for services as Commissioners of the Reform School for Girls, under the Resolve of eighteen hundred fifty-five, chapter eighty-three, and that the governor be authorized to draw his warrant accordingly. [*Approved May 4, 1857.*]

Chap. 48. RESOLVE in behalf of the Chaplains of the Legislature.
 §200 each, for services. *Resolved*, That there be allowed and paid, out of the treasury of this Commonwealth, to the Chaplains of the Senate and House of Representatives, each, the sum of two hundred dollars, for their services during the present session, and that warrants be drawn accordingly. [*Approved May 4, 1857.*]

RESOLVES in aid of the State Library.

Chap. 49.

Resolved, That, in addition to the sum of three hundred dollars annually appropriated for the increase of the State Library, as provided by the twelfth section of the eleventh chapter of the Revised Statutes, the further sum of two thousand dollars be appropriated; and the same is hereby appropriated annually, to be expended under the direction of the trustees and librarian of said library, in purchasing or otherwise procuring such works as they may deem most useful, and in defraying the expense of binding and keeping in good condition the works now belonging to the library, or which may hereafter be added to it.

Resolved, That the said trustees and librarian be authorized to employ such assistance as may be necessary for the accommodation of visitors, for the due protection and care of the library, and for the performance of whatever labor the librarian may require: *provided, however*, that the annual expense of such assistance shall not exceed five hundred dollars: these resolves to take effect from and after the first day of January, in the year eighteen hundred and fifty-seven; and the governor is authorized to draw his warrant accordingly. [*Approved May 4, 1857.*]

\$2,000 appropriated annually in addition, &c.

Trustees and librarian may employ assistance.

Proviso

When to take effect.

RESOLVE on the Petition of George H. Bruen.

Chap. 50.

Resolved, That, for the reasons set forth in said petition, George H. Bruen, the petitioner, one of the executors named in will of William D. Bruen, be, and is hereby authorized to sell and convey, in fee simple, either at public auction or private sale, and on such terms and conditions as he may think proper, all the right, title and interest which said William D. Bruen had or was entitled to at his decease, in a parcel of land situated in Malden, in the county of Middlesex, on the road leading to South Reading, on the west side thereof, being the same that is described in deed from Gilbert Ham to Daniel M. Wilson, George F. Cobb and William D. Bruen, copartners, dated April tenth, eighteen hundred and fifty-two, and recorded in Middlesex registry of deeds, lib. 631, fol. 315, or however otherwise described; with power to make, execute and deliver to the purchaser, all proper deeds and papers necessary to convey the same in fee simple: *provided*, that said George H. Bruen shall have first proved said will, in this Commonwealth, and given the requisite bond as executor thereof, or as administrator, with the will annexed, and shall also give to the judge of the probate court, in the county of Suffolk, a bond with sureties satisfactory to such judge, conditioned to faithfully execute the powers aforesaid, and

Authority to sell and convey real estate.

Proviso.

to pass over and apply the proceeds or avails of such sale according to law, and the provisions of said will. [*Approved May 4, 1857.*]

Chap. 51.

RESOLVE on the Petition of James Leeds.

Authority to sell and convey real estate.

Resolved, That for the reasons set forth in said petition, James Leeds, executor of the will of John Howe, late of Boston, deceased, be, and hereby is authorized to sell and convey in fee simple, at public auction or private sale, and on such terms and conditions as he may think proper, the land and premises mentioned in said petition, being an estate situated in Bennet Street, in said Boston, and fully described in a deed of Robert Lord, to said John Howe, dated March nineteenth, eighteen hundred and ten, and recorded in Suffolk registry of deeds, liber 232, folio 97, with power to make, execute and deliver to the purchaser, all proper deeds and other papers necessary to convey the same: *provided*, said Leeds shall first give a bond, with sureties, to the judge of the probate court, in the county of Suffolk, for the time being, satisfactory to said judge, conditioned to faithfully execute the powers aforesaid, and to pay and apply the proceeds and avails of said property according to law and the provisions of said will. [*Approved May 7, 1857.*]

Executors to give bonds.

Chap. 52.

§107.37 allowed.

RESOLVE on the Petition of the Exchange Mutual Insurance Company.

Resolved, That, for the reasons set forth in said petition, there be allowed and paid, out of the treasury of the Commonwealth, to the said Exchange Mutual Insurance Company, the sum of one hundred and seven dollars and thirty-seven cents, and that a warrant be drawn accordingly. [*Approved May 7, 1857.*]

Chap. 53.

RESOLVE on the Petition of John B. Alley and Francis O. Watts, Executors of the Will of Sarah B. Foster, deceased, and of the said Alley as Guardian of her Minor Children.

Authority to sell and convey real estate.

Resolved, For the reasons set forth in said petition, that the said Alley be, and he hereby is authorized, to dispose of and sell, at public or private sale, and on such terms and conditions as he may think proper, all the interest, both legal and equitable, which the said Sarah B. Foster, at the time of her decease, had in, with all her right and title to, the two parcels of land in Boston, in the county of Suffolk, between Union and Friend Streets, particularly described in the said petition. Also all the interest, legal and equitable, of the said minor children, namely, Joseph Winn Foster, Russell Burroughs Foster and Arthur Lewis Foster, and their right

and title to the premises, with authority to execute, acknowledge and deliver, all necessary and proper deeds of conveyance and release; the said Alley as guardian, as aforesaid, first giving bond satisfactory to the judge of probate for the county of Suffolk, with condition that he will account for the proceeds of such sale, according to law. And the said executors are authorized to execute a confirmatory deed of said premises. [*Approved May 7, 1857.*]

Bonds to be given.

RESOLVE in favor of the Hospital at Rainsford Island.

Chap. 54.

Resolved, That the sum of three thousand dollars be, and the same is hereby appropriated, to be applied by the inspectors of the Hospital at Rainsford Island, for the purpose of repairing and enlarging a wharf, and for the purchase of furniture for the use of the hospital, and that the governor draw his warrants accordingly. [*Approved May 7, 1857.*]

\$3,000 appropriated.

RESOLVE relating to the State Almshouse at Monson.

Chap. 55.

Resolved, That the sum of twelve hundred dollars be, and is hereby appropriated, to be applied by the inspectors of the almshouse at Monson, to the building of a pest-house and for other necessary purposes, and that the governor draw his warrants accordingly. [*Approved May 7, 1857.*]

\$1,200 appropriated for a pest-house, &c.

RESOLVES concerning the Massachusetts Claim against the General Government.

Chap. 56.

Resolved, That our senators and representatives in congress be, and they hereby are requested to use their best endeavors to procure an early and complete adjustment of the claim of Massachusetts against the general government, for militia services rendered during the late war with Great Britain.

Request to senators and representatives in congress.

Resolved, That his excellency the governor be requested to forward a copy of the foregoing resolve to each of our senators and representatives in congress. [*Approved May 8, 1857.*]

Copies to be transmitted.

RESOLVE relating to the compensation of the Door-Keepers, Messengers and Pages of the General Court.

Chap. 57.

Resolved, That there be paid out of the treasury of the Commonwealth, to the door-keepers, messengers and pages of the general court, the sum of seventy-five cents per volume for filing the documents of the senate and house, also, the journal for the members of the general court, during the present session, and that the governor be authorized to draw his warrant accordingly. [*Approved May 9, 1857.*]

75 cents per volume allowed for filing documents, &c.

Chap. 58.

\$88.55 to defray expenses of A. R. Pope.

RESOLVE concerning the Board of Education.

Resolved, That the sum of eighty-eight dollars and fifty-five cents be appropriated to the board of education, to defray the expenses of Augustus R. Pope, an agent of the board, who was employed by a misapprehension, after the expiration of the law authorizing the employment of agents, and that the governor draw his warrant accordingly. [*Approved May 14, 1857.*]

Chap. 59.

Authority to apply estate to support and education of minor children.

RESOLVE on the Petition of Laura N. Gorham.

Resolved, That for the reasons set forth in said petition, Laura N. Gorham, of Springfield, in the county of Hampden, guardian of William Henry Gorham and Josephine Gorham, minor children of Joseph W. Gorham, late of said Springfield, deceased, be, and she hereby is authorized to apply and appropriate to the suitable support and education of said minor children, such portion of the estate of said Joseph W. Gorham, either principal or income thereof, which she now holds, either as legatee under the will of said Joseph W. Gorham, or as guardian of said minor children, as may be necessary and proper therefor, and to sell and convey said estate or any part thereof; she the said Laura N. Gorham first giving bond, with sufficient surety or sureties, to be approved by the judge of probate for the county of Hampden, conditioned faithfully to apply the proceeds of said estate in the manner and for the purposes set forth in this resolve, and to account for the said proceeds and for all moneys expended under the authority hereof, whenever required by the judge of probate so to do. [*Approved May 14, 1857.*]

May sell and convey, &c.

Bonds to be given.

Chap. 60.

RESOLVE on the Petition of Francis T. Cordis, of Longmeadow, and others.

Authority to sell real estate in Boston;

Resolved, For the reasons set forth in said petition, that John J. Clarke, of Roxbury, in the county of Norfolk, the surviving trustee under the will of Thomas Cordis, late of Longmeadow, in the county of Hampden, deceased, be, and he hereby is authorized and empowered to sell, at public or private sale, and on such terms and conditions as he shall think proper, and to execute all necessary deeds and instruments to convey in fee simple, or any less estate, to the purchaser or purchasers thereof, free and discharged from all trusts and claims arising under or by virtue of the will aforesaid, and from all liability for the application of the purchase money, any or all of the following described parcels of real estate, to wit: a parcel of land situated in that

part of the city of Boston called South Boston, with the buildings thereon, and the privileges and appurtenances thereto belonging, and the same conveyed to said Thomas Cordis by David Reed, by deed dated October twenty-first, in the year eighteen hundred and thirty-five, and recorded with Suffolk deeds, liber 397, folio 251; also another parcel of land in said South Boston, with the privileges and appurtenances thereto belonging, bounded south-westerly by Third Street, south-easterly by E Street, north-easterly by a twenty feet passage-way, and north-westerly by land supposed to belong now or formerly to one Cherrington; also another parcel of land in said South Boston, with the privileges and appurtenances thereto belonging, bounded easterly by Atlantic Street, southerly by land supposed to belong now or formerly to Aaron Guild, westerly by National Street, and northerly by land supposed to belong now or formerly to Joseph W. Hayes; also another parcel of land situated in said South Boston, with the privileges and appurtenances thereto belonging, bounded southerly by Second Street, easterly by land supposed to belong now or formerly to William Wright, northerly by Dove Street, and westerly by land supposed to belong now or formerly to Samuel Nicholson; also a tract or parcel of land, with the buildings thereon and the privileges and appurtenances thereto belonging, situated in said Longmeadow, and bounded westerly by the town road, northerly by land now or late of Dimond Chandler in part, and in part by land now or late of the heirs of R. S. Storrs, easterly by land now or late of the heirs of said Storrs, southerly in part by land of W. G. Medlicott and G. O. Bliss, in part by land of Homer Merriam, in part by land of W. T. Clement, and in part by land of G. O. Bliss, trustee; and to invest and hold the net proceeds of such sale or sales, during the lives of the four sons of the said testator, in the same manner as is provided in said will, and for the use and benefit of the same persons as the said property itself, if it had not have been sold, would have been holden under the provisions of said will; and to pay over the income received on said proceeds to the persons who would have been entitled to the income and rents, and profits of such real estate had there been no such sale or proceedings as are hereby authorized: *provided*, that the said Clarke shall first give satisfactory bond to the judge of probate for said county of Hampden, for the faithful execution of the power hereby conferred on him. [Approved May 14, 1857.]

Also in Longmeadow.

Trustee to give bonds.

Chap. 61. RESOLVE to pay the Commissioners for the Consolidation of the General Statutes of the Commonwealth.

\$2,000 to each, in part for services.

Resolved, That there be allowed and paid to the Commissioners appointed to consolidate and revise the statutes of this Commonwealth, under the resolve of the sixteenth of February, eighteen hundred and fifty-five, in part for their services and expenses, the sum of six thousand dollars as follows: to Joel Parker two thousand dollars; to William A. Richardson two thousand dollars; to A. A. Richmond two thousand dollars; and the governor is authorized to draw his warrant for the same. [*Approved May 14, 1857.*]

Chap. 62.

RESOLVE in favor of Isaiah B. Young.

\$75 to Isaiah B. Young.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to Isaiah B. Young, the sum of seventy-five dollars, for services rendered the Commonwealth, under the direction of the commissioners for erecting the State Reform School Buildings, at Westborough, and that the governor be authorized to draw his warrant accordingly. [*Approved May 14, 1857.*]

Chap. 63.

RESOLVE on the Petition of John S. Holmes.

\$207.20 to John S. Holmes, out of fund of Charles River and Warren Bridges.

Resolved, That for reasons set forth in said petition, there be allowed and paid out of the fund of the Charles River and Warren Bridges, to John S. Holmes, of Boston, the sum of two hundred and seven dollars and twenty cents; and the governor is hereby authorized to draw his warrant accordingly. [*Approved May 15, 1857.*]

Chap. 64.

RESOLVE on the Petition of Levi Baker and others.

\$2,500 to Levi Baker, to test the constitutionality of a law of Virginia.

Resolved, That the sum of twenty-five hundred dollars be, and hereby is appropriated from the treasury of the Commonwealth, to enable Levi Baker, of Yarmouth, to test before the supreme court of the United States, the constitutionality of an act of the legislature of the State of Virginia, passed March seventeenth, one thousand eight hundred and fifty-six, entitled, "An Act providing additional protection for the Slave Property of Citizens." The said appropriation shall be paid out in such sums, and at such times, as the expenses incurred by said Levi Baker, for competent counsel and other incidental expenses and costs, shall, in the judgment of the attorney-general, render proper and expedient. And it shall be the duty of the attorney-general to furnish, on application therefor, his certificate for such amounts to the governor. And the governor is hereby authorized to draw warrants therefor, accordingly. [*Approved May 19, 1857.*]

RESOLVE on the Petition of George Morey.

Chap. 65.

Resolved, That, for the reasons set forth in said petition, George Morey, of Boston, in the county of Suffolk, trustee under the last will and testament of Asa Richardson, late of said Boston, merchant, deceased, or his successor in said trust, be, and he hereby is authorized to sell and convey in such manner, on such terms and for such prices as he shall deem expedient, at public auction or private sale, the whole or any part of the following described parcels of real estate, viz.: a certain piece or parcel of land situate in the westerly part of said Boston, bounded and described as follows, viz.: westerly on North Russell Street, there measuring eighty feet; southerly on land now or formerly of John D. Williams, William Simonds, and heirs of Edward Proctor, ninety feet; easterly on land now or formerly of James Ridgway and Warren Pearce, eighty feet; and northerly by land now or formerly of the heirs of Francis Whiston, ninety feet, to the first mentioned bounds: also, a certain parcel of land, with the brick dwelling-house thereon standing, fronting easterly on Leveret Street, in said Boston, there bounded and measuring twenty feet; northerly on house and land now or late of Seth Taylor, there measuring sixty-five feet; westerly on land now or late of Uriah Cotting, there measuring eighteen feet; southerly on house and land now or late of William Horton, and on the strip of land hereafter described, there measuring sixty-four feet: also, a strip of land adjoining the north-west corner of said Horton's house, bounded and measuring easterly on said Horton's house, eight inches; southerly on land of said Horton, eleven and one-half feet; westerly on land of said Horton, eight inches; and northerly on land last above described, eleven and one-half feet; said premises being the same conveyed by Charles McIntire to said Morey, trustee as aforesaid, by deed of mortgage, dated April fourth, eighteen hundred and thirty-five, and recorded with Suffolk deeds, lib. 389, fol. 87, with all the privileges, and subject to all the restrictions in said mortgage deed set forth, the same having been foreclosed: also, a certain lot of land, with the brick dwelling-house and other buildings thereon, situate on Montgomery Place, in said Boston, bounded and measuring as follows, viz.: westerly on a line running through the centre of the partition wall between the estate hereby described and the estate numbered "five" in the plan of S. P. Fuller, there measuring fifty-six feet more or less; northerly on a line running through the middle of the partition wall between the estate hereby described and land now or late of one Thayer, twenty-

Authority to sell
and convey real
estate.

five feet more or less; and easterly on the lot numbered "seven" on said plan, by a line running through the centre of the partition wall, fifty-six feet more or less; and southerly on said Montgomery Place, there measuring twenty-five feet; being the same premises heretofore conveyed to said Richardson by deed of E. H. Derby, dated August twentieth, eighteen hundred and thirty-one, and recorded with Suffolk deeds, lib. 354, fol. 121, with all the appurtenances, and subject to all the restrictions in said deed set forth; and to make, execute and acknowledge such deeds thereof in fee simple to the purchasers, as to said Morey or his successors may seem expedient; and the proceeds of the sale of said estates shall be held by said Morey in his said capacity, or his successors, upon the same trusts and for the same purposes as said estate itself would have been held had it not been sold and conveyed under the authority and in pursuance of this resolve: *provided, however*, that previously to any sale, the said Morey shall give bonds to the satisfaction of the judge of probate, for the county of Suffolk, for his acts and doings in the premises, and to account for and dispose of the proceeds of the sale of said real estate, if the bond already given by said Morey is not, in the opinion of said judge of probate, sufficient for the performance of said trust. [Approved May 20, 1857.]

Bonds to be given.

Chap. 66. RESOLVE on the Petition of Thomas J. Fletcher and others, Indians of Herring Pond.

Seth Miller, Jr., and Charles Marston, commissioners to examine and settle claims to lands, &c.

Resolved, That Seth Miller, Jr., of Wareham, and Charles Marston, of Barnstable, be, and they are hereby appointed commissioners to examine, and fully and finally to determine, all titles and claims to certain tracts of land located in the county of Plymouth, and claimed by the petitioners; and they, the said commissioners, are hereby authorized and empowered to compromise, adjust, and fully and finally to settle, justly and equitably, and as the interest of the Commonwealth, of the petitioners, and all other parties may require, all the matters, claims, and controversies now existing, growing out of, or in connection with, the possession of the aforesaid lands; and they may use such means as may be necessary to collect all desired information in relation to the matter. And the said commissioners shall cause this resolve to be published in the "Namasket Gazette" newspaper, on two different days, and at least fourteen days prior to a day duly specified and appointed, upon which all parties interested may have a fair and impartial hearing. And with this resolve, the said commissioners shall publish a notice of

Resolve and notice of, hearing to be published, &c.

such hearing, designating the time and place appointed therefor. And the said commissioners shall make a report of their doings to the governor and council, and receive such compensation for their services as the governor and council shall deem reasonable, not exceeding two hundred dollars; and a warrant may be drawn accordingly. [*Approved May 21, 1857.*]

Report to be made to governor and council.

RESOLVE on the Petition of William B. Richards and others, for confirmation of Partition of Real Estate. *Chap. 67.*

Resolved, For the reasons set forth in said petition, that the decree of the judge of probate, for the county of Suffolk, dated on the seventh day of April, in the year of our Lord eighteen hundred and fifty-six, by which the report of the committee appointed by the probate court, to make partition of the real estate of Reuben Richards, deceased, be, and the same is hereby ratified and confirmed. [*Approved May 23, 1857.*]

Decree of probate court confirmed.

RESOLVES for the pay of Members of the Executive Council, and of the Legislature and its Officers. *Chap. 68.*

Resolved, That there be paid, out of the treasury of this Commonwealth, to each member of the senate and house of representatives, three dollars per day for each and every day's attendance during the present political year, and one dollar for every five miles' travel from their respective places of abode, once in each session, to the place of the sitting of the general court; and also to each member of the council, three dollars for each and every day's attendance at that board, at each session thereof during the present political year, and one dollar for every five miles' travel from their respective places of abode, once in each session thereof; and to the president of the senate and speaker of the house of representatives, each, the sum of three dollars per day, for each and every day's attendance, in addition to their pay as members; and that warrants be drawn accordingly.

\$3 per day, to each member, and travelling expenses.

\$3 per day extra to president of senate and speaker of house.

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to the clerk of the senate and to the clerk of the house of representatives, each, the sum of ten dollars per day; to the assistant-clerk of the senate and to the assistant-clerk of the house of representatives, each, the sum of eight dollars per day, for each and every day they may have been employed during the present session of the present legislature; and the same sum per day as is herein provided for those officers, for such further time as they may be employed, not exceeding twelve days

\$10 per day to clerks.

\$8 per day to assistant-clerks.

Compensation for arranging documents.

\$300 to each clerk, for duplicate copies of journal, &c.

after the rising of the general court, in arranging the papers and documents of the session; and that there be further paid, to the clerk of the senate and to the clerk of the house of representatives, the sum of three hundred dollars each, for preparing duplicate copies of the journals for the library, as required by the orders of the two houses. [*Approved May 23, 1857.*]

Chap. 69.

RESOLVE on the Petition of A. S. Haven.

\$14.75 to A. S. Haven, as quarter-master, &c.

Resolved, For reasons set forth in said petition, that there be allowed and paid out of the treasury, to A. S. Haven, as quarter-master of the twelfth regiment Massachusetts Volunteer Militia, the sum of one hundred and fourteen dollars and seventy-five cents; and the governor is hereby authorized to draw his warrant accordingly. [*Approved May 23, 1857.*]

Chap. 70.

RESOLVES concerning the Back Bay.

Commissioners authorized to sell, &c.

Resolved, That the commissioners on the Back Bay be authorized to sell, upon such terms and conditions as they shall think fit, and convey by deed, with warranty or otherwise, to be duly executed by them in behalf of the Commonwealth and approved by the governor, any or all the lands in the Back Bay belonging to the Commonwealth, for money, or such other valuable consideration as they shall deem just and for the advantage of the Commonwealth.

Proceeds subject to commissioners' order.

Resolved, All money received as the proceeds of such sales, shall be paid into the treasury of the Commonwealth; and the governor may, from time to time, draw his warrant on the treasury, payable to the order of the commissioners, for so much of said proceeds of sale as the commissioners may require for the purposes named in these resolves: *provided*, that the amount so drawn shall in no event exceed one-half the amount paid in from the said sales of the Commonwealth's lands; nor shall said commissioners, in any event, incur debts or liabilities in prosecuting the enterprise exceeding the half of said amount. With the money so obtained, the commissioners may proceed to fill up said land belonging to the Commonwealth, with good and solid earth and clean gravel, to lay out and complete the streets, squares and walks which they may deem expedient, and to construct such drains and common sewers as they may find necessary for the public health and for the interests of the Commonwealth: *provided, however*, that no part of the land the title of which is now in litigation with the city of Roxbury,

Proviso.

Commissioners may proceed to fill up, &c.

Proviso.

before the supreme judicial court, shall be filled until the title to the same shall be decided in favor of the Commonwealth. [Approved May 26, 1857.]

RESOLVES respecting Hayti and Liberia.

Whereas, There is a great, profitable and increasing trade between the United States and Hayti, amounting, in the year eighteen hundred and fifty-six, to more than four and a half millions of dollars, employing eighty-seven thousand five hundred and ninety-eight tons of American shipping, navigated by three thousand six hundred and four American seamen, and seventeen thousand four hundred and thirty-one tons of foreign shipping;—and

Whereas, In the absence of a commercial treaty between the United States and Hayti, the commerce between the two countries is governed on the part of Hayti by such local laws as may, from time to time, be decreed, subject to sudden changes, and dependent on the caprice of an absolute monarch;—and

Whereas, Full one-half of the foreign trade of Hayti is with the United States, furnishing a ready market for our fish, pork, beef, flour, rice, furniture, cotton goods, and is every year becoming more important and more necessary to both countries;—and

Whereas, Hayti has been, *de facto*, an independent state since January, eighteen hundred and one, by a declaration of her independence, and *de jure*, since July eighteen hundred and twenty-five, by the recognition of France under Charles the Tenth, which independence has since been confirmed by treaties passed and ratified between the governments of France and Hayti;—and

Whereas, Hayti has given proof of her ability to maintain her independence by successful efforts against the armies of several European nations, and has adopted and sustained a regular government, and has caused her neutrality to be respected by belligerents;—and

Whereas, Hayti has the attributes of a sovereign state, and as such has been recognized by Great Britain, and by several powers of continental Europe, who are duly represented in Hayti, conformably to the comity of nations;—and

Whereas, The people of Liberia, by their history and position, and by the efforts they are now making to improve their social, intellectual and religious character, have strong claims upon the sympathy of all civilized and Christian powers, especially of the United States;—and

Chap. 71.

Reasons why the independence of Hayti and Liberia should be recognized.

Whereas, The Republic of Liberia is an independent nation, possessed of the materials of a profitable commerce, and is capable by its position of contributing to that great object of humanity, the suppression of the slave-trade, and to the general interests of civilization and freedom and religion in Africa; therefore,

Senators and representatives in congress requested, &c.

Resolved, That our senators and representatives at Washington be, and hereby are, requested to urge upon congress the importance of recognizing Hayti and Liberia as independent and sovereign states, and of placing our diplomatic and commercial relations with them on the same footing as those with other independent nations.

Copies to be transmitted.

Resolved, That his excellency the governor be, and hereby is, requested to cause copies of these resolves to be transmitted to each of our senators and representatives in congress. [Approved May 26, 1857.]

Chap. 72.

RESOLVE concerning Repairs and Furniture for the State House.

\$5,543.12 for repairs and furniture of state house.

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to the sergeant-at-arms, the sum of five thousand, five hundred and forty-three dollars and twelve cents, being the amount of outstanding bills for repairs and furniture for the state house; contracted during the years eighteen hundred and fifty-five and eighteen hundred and fifty-six, and that the governor be authorized to draw his warrant accordingly. [Approved May 26, 1857.]

Chap. 73.

RESOLVE on the Petition of Francis P. H. Rogers, and Kate E. Rogers, his Wife.

Authority to sell real estate.

Resolved, For reasons set forth in said petition, that Francis P. H. Rogers, and Kate E. Rogers, his wife, a minor, are hereby authorized to sell at public auction or private sale, and to execute all necessary deeds and instruments to convey to the purchasers thereof, in fee simple, all the estate, right, title, and interest of the said Kate E. Rogers, in all the real estate situate in the town of Marlborough, in the county of Middlesex, inherited by her as one of the heirs of her late father, Freeman Howe, of said Marlborough: *provided, however*, that the said Francis shall first give bond, with good and sufficient surety or sureties, to the judge of probate for the county of Middlesex, to be approved by said judge, with condition that the said Francis shall faithfully execute the power herein granted, and shall apply such portion of moneys received from sales made under this resolve, as may be suitable and necessary towards the support of the said Kate during her minority; and shall pay

Bonds to be given.

over to her the balance remaining on her attaining the age of twenty-one years, and in case of her death before she shall have attained the age of twenty-one, then to pay all such balance remaining in his hands to her legal heirs according to the laws of this Commonwealth. [*Approved May 26, 1857.*]

RESOLVE in relation to the Will of Joseph Hurd, deceased.

Chap. 74.

Resolved, That the attorney-general of the Commonwealth be, and he hereby is, directed to appear before the probate court for the county of Middlesex, and take such measures in relation to the probate of the will of Joseph Hurd, late of Malden, deceased, as in his judgment will promote the interests of the Commonwealth. [*Approved May 26, 1857.*]

Attorney-general directed to appear before probate court, &c.

RESOLVE in favor of the State Almshouse at Tewksbury.

Chap. 75.

Resolved, That the inspectors of the state almshouse at Tewksbury, be authorized and instructed to advertise for proposals to construct or complete the apparatus for heating said almshouse, by steam or otherwise, and to make a contract for the same, in behalf of the State; the contract to be given to the person or persons making the lowest and most satisfactory proposals: *provided*, that the whole expense of such apparatus shall not exceed the sum of twenty-five hundred dollars; and the person or persons taking the contract, shall and will, give a good bond conditioned that he, or they, will faithfully perform the said contract, and that said apparatus, when done, shall heat said almshouse to the satisfaction of said inspectors. The governor is hereby authorized to draw his warrant accordingly. [*Approved May 26, 1857.*]

Inspectors authorized to contract for apparatus.

Proviso.

RESOLVES concerning the State Normal Schools.

Chap. 76.

Resolved, That the sum of four hundred and twenty-five dollars be appropriated to defray the expenses of painting the outside of the normal school-house at Bridgewater; of procuring a new furnace, and of increasing the library and apparatus connected with said school.

For various purposes for the school at Bridgewater, \$425;

Resolved, That the sum of three hundred and twenty-five dollars be appropriated for the purpose of paying existing debts, of increasing the library and apparatus of the normal school at Westfield, and of making certain repairs upon the school-house, and improvements of the grounds about the same.

for the school at Westfield, \$325.

for the school at Framingham \$700;

Resolved, That the sum of seven hundred dollars be appropriated for the normal school at Framingham; six hundred dollars to pay the debt already incurred, and one hundred dollars to increase the library and apparatus connected with said school.

for the school at Salem, \$200;

Resolved, That the sum of two hundred dollars be appropriated for the purpose of increasing the library and apparatus connected with the normal school at Salem.

to be disbursed under direction of board of education.

Resolved, That the sums appropriated as aforesaid shall be disbursed under the direction of the board of education; and the governor is hereby authorized to draw his warrant for the sums above appropriated. [*Approved May 27, 1857.*]

Chap. 77.

RESOLVE in favor of the Town of Chilmark.

\$29.09 to the town of Chilmark.

Resolved, That, for reasons set forth in the petition of the town of Chilmark, there be allowed and paid, out of the treasury of the Commonwealth, to the petitioners, the sum of twenty-nine dollars and nine cents; and the governor is hereby authorized to draw his warrant accordingly. [*Approved May 27, 1857.*]

Chap. 78.

RESOLVE in favor of the Commissioners on the State House.

\$5,703.81, for repairs upon, and furniture in the state house.

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to the commissioners on the state house, the sum of five thousand seven hundred and three dollars and eighty-one cents, to be expended by said commissioners, in the liquidation of bills already incurred or to be incurred, during the present political year, for repairs upon, and furniture in, the state house; and the governor is hereby authorized to draw his warrant for the same. [*Approved May 27, 1857.*]

Chap. 79.

RESOLVE in favor of S. Shumway.

\$59.75 to S. Shumway for pursuing criminals.

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to S. Shumway, the sum of fifty-nine dollars and seventy-five cents, for expenses incurred by him in pursuing John Gleason and Patrick Burk, jr., charged with the crime of murder, and that the governor be authorized to draw his warrant accordingly. [*Approved May 27, 1857.*]

Chap. 80.

RESOLVES in favor of the Dudley Indians.

Indians required to live on lands set off for them.

Resolved, That for the purpose of insuring a more prudent and economical support of the Dudley Indians, the guardian require all of said Indians claiming support of this

Commonwealth, to reside upon the land set apart for their use, and under his immediate supervision.

Resolved, That the guardian of the Dudley Indians cause to be removed to the state almshouse, such of said Indians as are leading an idle, vicious and dissolute life. The idle and dissolute to be sent to state almshouse.

Resolved, That it is the duty of said guardian to endeavor to inculcate and promote habits of industry and good morals among said Indians, and to aid them, as far as possible, in all proper efforts in obtaining means of support. Industry, &c., to be inculcated.

Resolved, That the sum of three thousand dollars be, and the same is, hereby appropriated for the building and repairing of houses for the Dudley Indians, and for constructing a road to their premises; and that the selectmen of the town of Webster be authorized to expend such amount for the purposes specified in this resolve; and the governor is hereby authorized to draw his warrant accordingly. [*Approved May 29, 1857.*] \$3,000 for houses and road.

RESOLVE in favor of B. B. Chandler.

Chap. 81.

Resolved, That, for reasons set forth in the petition of B. B. Chandler, of Webster, there be allowed and paid, out of the treasury of the Commonwealth, to the petitioner, the sum of thirty dollars, and that the governor be authorized to draw his warrant accordingly. [*Approved May 29, 1857.*] \$30 to B. B. Chandler.

RESOLVES in relation to the State Map.

Chap. 82.

Resolved, That the amount of money to be allowed and paid out of the treasury of this Commonwealth, in payment for corrections of the plates of the state map, under the acts of one thousand eight hundred and forty-six, chapter two hundred and forty-one, shall not exceed six hundred dollars during the present year; and hereafter not more than one hundred dollars shall be allowed and paid for the preservation and correction of the map in any one year; and his excellency the governor is hereby authorized to draw his warrants accordingly. Limitation of the expenditure on plates of the state map.

Resolved, That the state map, when corrected during the present year, shall be copy-righted anew by the secretary, in the name of the Commonwealth, and shall again and always be copy-righted anew in the name of the Commonwealth, whenever any material alterations, corrections and improvements, are made therein. Map to be copy-righted anew.

Resolved, That so much of the Resolves of one thousand eight hundred and fifty-two, chapter thirty-nine, as authorizes Partial repeal.

any expenditure from the treasury of the Commonwealth, for corrections and alterations of the state map, except what is authorized by the first of these resolves, and so much of said chapter thirty-nine as limits to five dollars the price to be charged for the map, is hereby repealed: *provided, however,* that the superintendent of the state map shall furnish as many copies of the map as may be required by any officer of the government for public purposes, at a price not exceeding five dollars each; and *provided, further,* that the contract with the superintendent may, at any time, be terminated, when ordered by the legislature, as is provided in said chapter thirty-nine. [Approved May 29, 1857.]

Proviso.

Additional proviso.

Chap. 83. RESOLVE providing for the Publication and Distribution of Professor Hitchcock's Geological Report.

Report to be published under direction of library committee.

How distributed.

Resolved, That Professor Hitchcock's Geological Report on the Sandstone of the Connecticut Valley, with drawings and maps connected therewith, be printed, under the direction of the committee of the library; that a sufficient number be printed, and one copy furnished to each member of the executive and legislative departments of the government for the present political year, and one copy to each town and city in the Commonwealth. [Approved May 29, 1857.]

Chap. 84.

RESOLVE concerning the Preservation of Cape Cod Harbor.

Committee of examination authorized.

Engineer to be employed, &c.

Resolved, That his excellency the governor, with the advice and consent of the council, be requested and empowered to appoint a committee to examine Cape Cod Harbor, particularly the eastern portion thereof, with reference to the plan of constructing, by means of an appropriation by congress, a pier or solid wall from Beach Point, in Truro, to the opposite beach at the mouth of East Harbor, so called; and that his excellency the governor be forthwith empowered to employ, under the direction of said committee, a competent engineer to make a survey and estimate of said structure, and its probable effects as a protection to said harbor, in order that a report thereon may be made at the session of the next general court. [Approved May 29, 1857.]

Chap. 85.

RESOLVE in addition to the Resolves in favor of Normal Schools and School Agents, passed the second day of May, in the year eighteen hundred and fifty-five.

Annual appropriation increased \$500.

Resolved, That the sum of thirteen thousand dollars appropriated to support the four state normal schools in the Commonwealth, in the resolves passed the second day of May, in the year eighteen hundred and fifty-five, be increased

five hundred dollars; two hundred dollars to be added to the salary of the first assistant-teacher in the normal school at Bridgewater, and three hundred dollars as a salary for a third assistant-teacher in the normal school in Westfield; and the governor is authorized to draw his warrant for five hundred dollars. [*Approved May 29, 1857.*]

RESOLVE in relation to the State Printing.

Chap. 86.

Resolved, That the secretary, treasurer, and auditor of this Commonwealth, together with the clerk of the senate and the clerk of the house of representatives, shall be and hereby are authorized to advertise for proposals to do the state printing for five years; and to contract with the party or parties who will agree to do said printing at the lowest rates: *provided,* that in their opinion said party or parties are responsible, and will execute the same in a faithful and satisfactory manner. In any such contract, the rates to be paid for composition and press-work shall be fixed at such sums as shall give a fair and reasonable compensation to the contractor or contractors, and shall allow all persons in his or their employ to receive the usual rates of compensation for their respective services. It shall be stipulated, that the paper shall be furnished at cost without bonus, allowance or commission to any person whatever. The quality of the paper and printing and the style of the work must be equal to that heretofore furnished by the present state printer. Bonds satisfactory to the treasurer of the Commonwealth, to the amount of ten thousand dollars, shall be given by the party or parties undertaking the printing, for the faithful execution of the contract. The other provisions of the contract shall be such as shall seem best to the secretary, treasurer, auditor, and clerks aforesaid, and they are hereby authorized, from time to time, to take such measures as they shall think fit, to ensure its faithful execution. Before any contract, made by the authority of this resolve, is signed on behalf of the Commonwealth, it shall be approved by the attorney-general. [*Approved May 30, 1857.*]

Lowest responsible bidder to have contract.

Compensation.

Paper to be furnished at cost.

Quality of paper, style of work, &c.

Bonds to be given.

Discretionary power vested in secretary, treasurer, &c.

Contract to be approved by attorney-general.

RESOLVE in favor of the State Prison.

Chap. 87.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth the sum of three hundred dollars to replenish the library of said prison, for binding and for printing a catalogue of said library, to be expended under the direction of the warden, and that the governor be authorized to draw his warrant accordingly. [*Approved May 30, 1857.*]

\$300 to replenish library.

Chap. 88.

RESOLVES in relation to the State Prison.

Warden and inspectors authorized to sell real estate;

Resolved, That the warden and inspectors of the state prison be, and hereby are, authorized and empowered, by and with the advice and consent of the governor and council, to sell and convey a part of the lands lying south of the prison, in Charlestown, now belonging to the Commonwealth, to wit: beginning at the south-west corner of the prison wharf, at its junction with the lands of the Boston and Maine Railroad Company; thence running south-easterly, about four hundred and fifty feet; thence running easterly, about eighty-two feet, on land of Fitchburg Railroad Company, to Austin Street; thence north-easterly on said Austin Street, one hundred and forty feet: thence in a straight line, westerly, about four hundred and ninety feet, to the edge of the wharf; thence south-westerly, one hundred and ten feet, to the point of beginning,—with all the rights and appurtenances thereto belonging, but subject to such restrictions and limitations as said warden and inspectors shall deem to be essential to the interests of the prison. Said warden and inspectors are also authorized to sell and convey a right of way, not exceeding twenty-five feet in width, on the north-easterly side of the lands hereinbefore described.

also, a right of way.

Proceeds, how appropriated.

Resolved, That said warden and inspectors are hereby authorized and empowered to remodel the lower stories of the hospital building, and extend the same, and to construct twenty cells therein; and for the construction and full completion of said work, to expend not exceeding twenty thousand dollars: *provided*, that no part of said work shall be commenced or contracted for, except from the proceeds of the land herein authorized to be sold.

Resolved, That said warden and inspectors are hereby authorized and empowered to pay, out of the proceeds of said lands, an outstanding claim against the prison, of eight thousand dollars, and also a further sum, not exceeding one thousand dollars, for a proposed alteration in the guard-room of the prison, and also to appropriate twenty-eight hundred dollars, to meet an existing deficiency in the expenses of the prison; and the balance of the proceeds of said land shall be paid into the treasury of the Commonwealth. [*Approved May 30, 1857.*]

Chap. 89.

RESOLVE relating to the Estate of Abraham Russell.

Estate to be distributed among the heirs of Ruth Russell.

Whereas, Abraham Russell, late of Dartmouth, in the county of Bristol, died intestate, leaving no next of kin surviving him legally entitled to inherit his estate, which thereby escheats to the Commonwealth; for the reasons set

forth in the petition of Allen Howland and others, the next of kin of Ruth Russell, the mother of said Abraham Russell:

Resolved, The public administrator for the county of Bristol, to whom has been committed the administration of said estate, be and he is hereby authorized and required, after paying all just claims against said estate and all expenses incurred in the settlement of the same, and arising out of said petition, to distribute the net proceeds of said estate in equal proportions, *per capita*, to and among the next of kin of the said Ruth Russell, resident in this Commonwealth, who shall, on or before the first day of January next, establish to the satisfaction of said administrator, subject to the approval of the judge of probate of said county of Bristol, their relationship as next of kin to the said Ruth Russell. [*Approved May 30, 1857.*]

RESOLVE relative to the Registration Reports.

Chap. 90.

Resolved, That the secretary of the Commonwealth be, and is hereby, directed to complete the indexes to the volumes containing the registration returns of the Commonwealth, to the present year, according to the provisions of chapter two hundred and two, section five, of the Acts of eighteen hundred and forty-nine; and that he cause said indexes to be completed at a price not exceeding twenty cents a page, and that warrants be drawn accordingly. [*Approved May 30, 1857.*]

Completion of indexes ordered.

Price not to exceed twenty cents a page.

RESOLVE for the pay of the Chaplain of the House of Representatives.

Chap. 91.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to Rev. John P. Cleveland, of Lowell, the sum of fifty dollars, for his services as chaplain of the house of representatives, during the present session, and that a warrant be drawn accordingly. [*Approved May 30, 1857.*]

\$50 to Rev. John P. Cleveland.

RESOLVE concerning the State Cabinet.

Chap. 92.

Resolved, That the commissioners on the state house be, and they are hereby authorized to furnish the rooms of the secretary of the board of agriculture, in a manner suitable to receive the state geological and mineralogical cabinet, and other specimens contributed to the state agricultural museum, designed to illustrate the past and present conditions of the agriculture of the Commonwealth, at an expense not exceeding two thousand dollars; and the governor is hereby authorized to draw his warrant for the same. [*Approved May 30, 1857.*]

Rooms to be furnished for geological and mineralogical cabinet

Expense not to exceed \$2,000.

Chap. 93.

RESOLVE in favor of the State Lunatic Hospital at Taunton.

\$5,000 appropriated.

Resolved, That the sum of five thousand dollars be appropriated out of the treasury of the Commonwealth for the purpose of liquidating the existing debt against the state lunatic hospital at Taunton, and that the governor be authorized to draw his warrant accordingly. [*Approved May 30, 1857.*]

Chap. 94.

RESOLVE in favor of the State Almshouse at Bridgewater.

\$2,500 for ventilators and improvements.

Resolved, That there be appropriated and paid out of the treasury of the Commonwealth, the sum of twenty-five hundred dollars, for the purpose of ventilation and improvements at the state almshouse at Bridgewater, and that the governor be authorized to draw his warrant accordingly. [*Approved May 30, 1857.*]

Chap. 95.

RESOLVES concerning Commissioners.

Daily record to be kept.

Resolved, That all commissioners, acting under and by virtue of authority derived from the legislature of this Commonwealth, to whom a *per diem* compensation is given, shall be required to keep a full record of each day's official transactions, and of their travel, where travel fees are allowed; and a transcript of said record shall be furnished to the auditor of the Commonwealth, to be filed in his office, whenever the accounts of such commissioner or commissioners are presented for payment.

Transcript to accompany accounts.

Compensation to be stated.

Resolved, That all acts or resolves, authorizing any commission, shall state and limit the amount of the compensation, whether by the day or in gross, to be paid and received for the services performed under and by virtue of such commission; and no compensation shall in any case be paid unless it is so stated and limited.

Commissioners discharged.

Resolved, That the commissioners appointed by, or in pursuance of the four hundred and fifty-first chapter of the Acts of the year eighteen hundred and fifty-four, are hereby discharged from and after the passage of these resolves. [*Approved May 30, 1857.*]

Chap. 96.

RESOLVE authorizing the Treasurer to borrow Money in anticipation of the State Tax.

Treasurer may borrow \$800,000.

Resolved, That the treasurer be authorized to borrow, in anticipation of the state tax, such sums of money as may be necessary, from time to time, for the payment of any public debt which may fall due in the present year; and that he repay any sum he may borrow, as soon as money sufficient

for the purpose, and not otherwise appropriated, shall be received into the treasury: *provided*, that the whole amount borrowed by virtue of this resolve, and remaining unpaid, shall not at any time exceed the sum of eight hundred thousand dollars. [*Approved May 30, 1857.*]

RESOLVE relating to Amendments of the Constitution.

Chap. 97.

Resolved, That all amendments to the constitution of this Commonwealth, which have been or shall be originated and agreed to by this legislature, in the manner prescribed in the constitution, be engrossed on parchment, signed by the presiding officers of the two branches, attested by the clerks of the same, and deposited in the office of the secretary of the Commonwealth; and that the same be published, in the official volume of Acts and Resolves, by the secretary of the Commonwealth. [*Approved May 30, 1857.*]

Amendments to be engrossed, &c.

RESOLVE in aid of the State Lunatic Hospital at Northampton.

Chap. 98.

Resolved, That the sum of thirty-five thousand dollars be, and the same is hereby appropriated for the purpose of furnishing and providing for the occupancy of the state lunatic hospital at Northampton, to be expended under the authority of the trustees, provided in chapter two hundred and forty-seven of the acts of the year one thousand eight hundred and fifty-six, and that the governor draw his warrant accordingly. [*Approved May 30, 1857.*]

\$35,000 appropriated

RESOLVE concerning Notes given by the Treasurer.

Chap. 99.

Resolved, That all notes which may hereafter be given by the treasurer of the Commonwealth, for money borrowed in anticipation of the revenue, and for the payment of the ordinary demands upon the treasury, or for any other purpose, shall be signed by the governor and countersigned by the treasurer and auditor of the Commonwealth; and no note shall be valid, until so signed and countersigned. [*Approved May 30, 1857.*]

Notes to be signed by governor and countersigned by treasurer and auditor.

RESOLVE in favor of Samuel H. Jenks.

Chap. 100

Resolved, That Samuel H. Jenks be allowed the sum of five hundred and eleven dollars and seventy-five cents, in full for his services in making an abstract of the insurance returns, and other duties connected therewith, between the first day of October, eighteen hundred and fifty-five, and the first day of March, eighteen hundred and fifty-six; and his excellency the governor is hereby authorized to draw his warrant accordingly. [*Approved May 30, 1857.*]

\$511 allowed for making insurance abstract, &c.

Chap. 101 RESOLVE in addition to a "Resolve concerning the Colony Records of New Plymouth and Massachusetts."

Resolve of 1855 amended.

Resolved, That so much of the "Resolve concerning the Colony Records of New Plymouth and Massachusetts," approved March twenty-fourth, eighteen hundred and fifty-five, as authorizes the printing of the six volumes of deeds, the four volumes of wills and inventories, and the one volume of Indian deeds, be, and the same is, so far amended as to authorize the printing of the first volume of deeds, and the volume of Indian deeds, only. [Approved May 30, 1857.]

Chap. 102

RESOLVE in favor of the Towns of New Salem and of Lee.

New Salem and Lee to be supplied with Law Reports, Revised Statutes, &c., and State Map.

Resolved, That the secretary of the Commonwealth be authorized and directed to provide the towns of New Salem and of Lee, each, with complete sets of the Massachusetts Reports, Pickering's Reports, Metcalf's Reports, Cushing's Reports and Gray's Reports; also with one copy of the Revised Statutes, and copies of such general and special laws of the Commonwealth, as he may have in his office; and also with a copy of the State Map. And the secretary is authorized to purchase such of the reports aforesaid as may be necessary to carry into effect this resolve; and the governor is authorized to draw his warrant for the necessary amount accordingly. [Approved May 30, 1857.]

Chap. 103

RESOLVE in favor of the Board of Insurance Commissioners.

\$300 allowed for contingent expenses.

Resolved, That the sum of three hundred dollars be and is hereby appropriated, out of the treasury of the Commonwealth, for the payment of contingent office expenses of the board of insurance commissioners for the current year, and the governor is authorized to draw his warrant accordingly. [Approved May 30, 1857.]

Chap. 104

RESOLVE to publish the Act relating to applications to the General Court.

Act to be published in two newspapers in each county.

Resolved, That the secretary of the Commonwealth be, and hereby is, required, as soon after the adjournment of the general court as practicable, to procure the publication, for four weeks successively, of the "Act relating to applications to the General Court," in such newspapers, not exceeding two, printed in each county in the Commonwealth, as he shall designate; and that the governor draw his warrants accordingly. [Approved May 30, 1857.]

RESOLVE concerning the Documents and Papers of the Senate.

Chap. 105

Resolved, That the clerk of the senate cause to be prepared under his supervision, a catalogue, abstract and index of the senate papers now on file, from the year seventeen hundred and eighty to eighteen hundred and fifty-six, inclusive, upon the same plan as that of the catalogue, abstract and index of the house papers, now in course of preparation: *provided*, that the work shall be completed within the present year, and that the whole expense of the same shall not exceed twenty-five hundred dollars, to be paid on the completion of the work; and the governor is authorized to draw his warrant for the payment of the same. [*Approved May 30, 1857.*]

Catalogue, abstract, and index of senate papers to be prepared.

Proviso.

RESOLVE concerning the General Index of Senate Journals.

Chap. 106

Resolved, That there be allowed and paid, to the clerk of the senate, the sum of two hundred and fifty dollars, in full compensation for completing the general index of the journals of the senate, and a duplicate copy thereof for the state library; and the governor is hereby authorized to draw his warrant for the sum when the duplicate copy aforesaid shall have been so completed and deposited. [*Approved May 30, 1857.*]

\$250 for indexing senate journal.

RESOLVES concerning the Colony Records of New Plymouth and Massachusetts.

Chap. 107

Resolved, That so much of the nineteenth chapter of the resolves of the year A. D. eighteen hundred and fifty-five, "Concerning the Colony Records of New Plymouth and Massachusetts," as provides for the distribution of one copy of said records, when printed, to each member of the executive council, for that political year, the senate and house of representatives, and the clerks and chaplains of the two branches, the sergeant-at-arms and his officers, and the reporters of the two branches, be, and the same is, hereby repealed.

Provision for distribution of Colony Records repealed.

Resolved, That the secretary of the Commonwealth cause one copy of each volume of the Colony Records of New Plymouth, when printed, to be delivered to each city and town in the Commonwealth, for the use of said city and town; and that such volumes of said records, and of the Records of Massachusetts, as shall not be distributed by virtue of said resolves of eighteen hundred and fifty-five, as hereinbefore amended, shall remain in the custody of the secretary of the Commonwealth, until otherwise provided by law. [*Approved May 30, 1857.*]

One copy to each city and town.

Balance to remain in custody of secretary.

Chap. 108

Annual appropriation for school increased to \$7,500.

RESOLVE concerning Idiotic Children.

Resolved, That the sum paid out of the treasury of the Commonwealth to the treasurer of the Massachusetts School for Idiotic and Feeble-Minded Youth, according to a resolve approved by the governor April thirtieth, in the year one thousand eight hundred and fifty-one, be increased for the current year to seven thousand five hundred dollars: *provided*, that said sum be used and applied according to the conditions of said resolve.

HOUSE OF REPRESENTATIVES, May 28, 1857.

This resolve having been returned to the house of representatives by his excellency the governor, together with his objections thereto, the said objections were entered at large on the journal, and the house proceeded to reconsider the said resolve; and the question being stated on agreeing to pass the resolve, notwithstanding the said objections, the yeas and nays were taken thereon, and two-thirds of the members present and voting thereon having voted in the affirmative, the house agreed to pass the same notwithstanding said objections.

CHARLES A. PHELPS, *Speaker*.

IN SENATE, May 29, 1857.

The question being stated,—shall this resolve be approved, the governor's objections to the contrary notwithstanding, and being taken as required by the constitution, by yeas and nays, and two-thirds of the members present and voting thereon having voted in the affirmative, the senate approved the same, notwithstanding the said objections.

CHARLES W. UPHAM, *President*.

COMMONWEALTH OF MASSACHUSETTS.

In the Year One Thousand Eight Hundred and Fifty-Seven.

RESOLVE

TO AMEND THE CONSTITUTION RELATIVE TO LIMITING THE SESSIONS OF THE LEGISLATURE.

Resolved, By both houses, (the same being agreed to by a majority of the senators, and two-thirds of the members of the house of representatives, present and voting thereon,) that it is expedient to alter the Constitution of this Commonwealth, by adopting the subjoined article of amendment, instead of so much of the tenth article of the amendments, thereto, as relates to the general court, and the time when it shall assemble and be dissolved; and that the same, when thus agreed to, be entered on the journals of the two houses, with the yeas and nays taken thereon, and referred to the general court next to be chosen, and that the same be published, to the end that if agreed to by the general court next to be chosen, in the manner provided by the Constitution, it may be submitted to the people for their ratification, in order that it may become part of the Constitution of this Commonwealth.

ARTICLE OF AMENDMENT.

The political year shall begin on the first Wednesday of January, instead of the last Wednesday of May; and the general court shall assemble every year on the said first Wednesday of January, and shall proceed at that session to make all the elections, and do all the other acts, which are by the Constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. No session of the general court shall continue longer than one hundred days, without the concurrent vote, to be taken by yeas and nays, of two-thirds of the members elected to each house, in which case the session may be extended for a further period not exceeding ten days. And the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the governor.

1857.—CONSTITUTIONAL AMENDMENT.

IN SENATE, May 7, 1857.

The foregoing resolve and article of amendment are agreed to by the senate, a majority of the members present and voting thereon, having voted in the affirmative; and the same are ordered to be referred to the general court next to be chosen.

Sent down for concurrence.

CHARLES W. UPHAM, *President*.

Attest:

PETER L. COX, *Clerk*.

HOUSE OF REPRESENTATIVES, May 14, 1857.

The foregoing resolve and article of amendment are agreed to by the house of representatives, two-thirds of the members present and voting thereon, having voted for the same; and the resolve and article of amendment are referred to the general court next to be chosen.

In concurrence.

CHARLES A. PHELPS, *Speaker*.

Attest:

WILLIAM STOWE, *Clerk*.

INAUGURAL ADDRESS

OF

HIS EXCELLENCY HENRY J. GARDNER.

REPRESENTATIVES' CHAMBER, }
Jan. 9, 1857. }

At one-half past one o'clock, His Excellency the Governor, accompanied by His Honor the Lieutenant-Governor, the members of the Executive Council, and the various officers of the government, attended by a Joint Committee of the two Houses, and the Sheriff of Suffolk, met the Senate and House of Representatives, in Convention, and delivered the following

A D D R E S S .

*Gentlemen of the Senate
and of the House of Representatives :—*

Led by the gracious hand of a benign Providence through another season of prosperity and happiness, our honored Commonwealth to-day crosses the threshold of a new political year. Called by her suffrages to our various posts of honor and duty, much of her future prosperity or adversity depends upon the acts of us, her servants. Let us each, realizing the individual responsibility resting upon us, strive in every thing to advance her interests and the cause of truth and justice. May a generous patriotism raise us above

the influences of party, a devotion to the interests of the whole rebuke the suggestions of section and sect, and the bias of self-interest be overcome in the discharge of the nobler duties we owe the State.

Our nation has just passed through another presidential contest under circumstances which would have imperilled the existence of any other government on the globe; and yet, so admirably harmonious are the workings of our system, and so readily obedient are our people to the will of the majority, that a stranger among us would hardly have supposed so momentous an event had transpired, as the struggle between antagonistic theories concerning the administration of our government, which, though nominally for the term of four years, nevertheless may tell upon its policy and destiny for generations. And though nowhere was the result so great a disappointment to so large a proportion of our citizens as in Massachusetts, and nowhere was the real magnitude of the issue more fully appreciated, and hopes of a different termination more earnestly indulged, yet here, with a firm reliance on the ultimate triumph of the great principles we cherish, our people acquiesce in the result in the proper spirit of our institutions. Yet, though as patriots and good citizens we submit to the will of the majority, it is not only our right but our duty to examine thoroughly the causes which produced so unfavorable a result—a result not only prejudicial, we fear, to the cause of freedom, but portending evil to the integrity of our Union—and to strive, as far as we may, legally, justly and honorably, to remove them for the future.

The issue involved in this great struggle was declared to be, both while it was pending and since its termination, directly or more remotely, not only whether freedom or slavery should be established in the territory of Kansas, but whether foreign nations should be absorbed, and Cuba, Mexico and Central America annexed to our southern borders; not only whether the powers of the executive and the legislation of congress should be prostituted to the establishment of serfdom in latitudes once free,—but also whether the extension of the area of slavery by diplomacy, by conquest and by purchase, was not to be, and to continue to be, the established policy of our government.

Although it was freely asserted and widely believed that the question of freedom or slavery in Kansas would hinge upon the result of this election, and although, had it terminated in a different manner, the probability of her early admission into the Union as a free State would have been

materially strengthened, yet recent developments give strong hopes that the present chief executive officer of that territory, in contradistinction to his predecessor, will administer the laws fairly and impartially, will protect the actual settlers in their just rights, and will resist the intrusion of non-residents for illegal purposes. Such are the convictions of those on the spot most capable of judging, and most effectively aiding in the accomplishment of these desired purposes. If so, the energy of our citizens in the race of colonization, aided by the individual and associated coöperation of the intellectual influence and material resources of the people of the North, will certainly outstrip the more sluggish tide of Southern emigration, and insure the triumph of free territory in the approaching State of Kansas; a result glorious in itself, and still more so, as it renders impotent the violation of a national compact, and an illegal invasion by people of another State for the avowed purpose of overawing and outnumbering the suffrages of rightful citizens, accompanied with inhuman and barbarous murders, and all the atrocities of actual and desperate warfare.

Still, so far as the decision of the presidential election is final, so far as the action of the present is inevitably developed in immeasurable and incomprehensible consequences and influences on the future, and so far as a step has been taken which it may require a generation to retrace, our citizens have the bitter assurance of knowing that that decision has been made, that action fixed, and that step taken, by the casting votes of aliens born, aliens unnaturalized, and aliens entirely ignorant of our institutions and grossly callous to the vast interests involved in this stupendous issue. While this horde of foreign-born voters has thus stricken down a noble cause, which appealed to the moral sentiment and enlightened patriotism of our country, it only affords another confirmation of a fact which our whole history establishes, that the foreign vote, with hardly an exception, always has been, and in the nature of things ever will and must be, attracted to that party which, under high-sounding generalities on the abstract rights of man, always practically coöperates with slavery at the south, and banishes from its platform the moral questions, and nobler instincts, and more enlightened sentiments of the age.

All classes of aliens, both high and low, are absorbed, with few exceptions, into this extreme and self-styled progressive party, by laws of the human mind as inevitable as they are constant. To the German student, chafing under the tyranny, and to the German peasant, struggling for a livelihood

under the taxation and oppression, of the petty dynasties of the father-land; to the Irish repealer, enthusiastic for the regeneration of his country, and to the Irish laborer, striving for the means to flee from his impoverished island; to the revolutionist, dazzled with the hopes of a continental republic and national liberty; and to the down-trodden of all lands, the word democracy has a magical and irresistible fascination. It is a term proscribed by the ruling powers of Europe, and is the watchword of rebellion and political change the continent over. To the philosopher and the serf it bears the same wild and alluring attraction. It is a word having there a mighty and terrible meaning. It incarnates the utopian dreams of the political visionary, the ambition of struggling and inexperienced youth, the aspirations of the revolutionist, the desires of the mutinous soldier, the expectations of the toiling serf, and the wildest hopes of the discontented of Europe.

With these prepossessions the foreigner lands upon our shores, and irresistibly attaches himself to the party bearing this name he has been taught to worship. So it has been, and so it ever will be. And it is this alien body which has decided in the past, many of our great national elections, and in the future, unless checked, is destined to thwart many of the noblest movements which New England, coöperating with the New England sentiments, morality and education, diffused through the great West, may undertake in behalf of freedom, humanity, and the nobler spirit of the century. It was the deadening influence of this body which counteracted the great Northern uprising of the last national election. For wherever New England sentiments, New England education, and New England morality, by reason of State colonization from the indigenous and unmixed population of these six States, were diffused and predominated, there, without an exception, the cause of free territory triumphed. And not only foreign ignorance and vice, but German rationalism, the infidelity of Southern Europe, and the Godless philosophy so prevalent among her educated men and better citizens, bear an instinctive antagonism to the moral sentiment and practical Christianity which underlaid the movement involved in this presidential contest, and which will underlie all conservative attempts to develop and carry out the genuine American spirit of our republican institutions.

There is but one remedy and but one barrier to this steady and increasing power. I fully discussed this remedy, and the principles which compelled me to advocate its adoption,

in my first Message to the legislature of Massachusetts; and I earnestly reiterate the sentiments therein contained, so signally and so deplorably have they been confirmed by the unmistakable lesson of the events of the past year. And I urge attention to them because it is so strikingly evident that the great battle—of which the contest of 1856 was but the preliminary skirmish—the great battle to keep out of the Union Cuba, Mexico and Central America, with their aliens and their slaves,—countries blasted by Spanish tyranny and the Inquisition, till they are but the melancholy fragments and relics of states with a degenerate population, and are fit only as lands for the transplanting of Negro slavery to grow side by side with the grossest political and religious serfdom,—this great battle can be triumphantly fought only by appealing to the people under the banner of the principles I have therein enumerated, which principles are not grounded merely in the passions and prejudices, but commend themselves to the reflective judgment of our citizens.

Born and brought up under totally dissimilar principles of government, and accustomed to be led by the clannish influences which surround them rather than by enlightened individual responsibility, aliens are unfitted to appreciate or rightly use the great trust, in the exercise of which they are unwisely permitted to participate. While we would grant them, and defend them in, the enjoyment of their religious belief, in the worship of the Supreme Arbiter of all our destinies, according to their customs or their preferences, yet, in considering the propriety of voluntarily granting or withholding, for a suitable period, the exercise of those functions that constitute our own political privileges and birthright, we may properly, and should necessarily, remember that the class of aliens, to whom we specially refer, are blindly attached to a religious faith whose cardinal principle is implicit obedience to its temporal head, and that temporal head a foreign potentate, which forbids independence of action and the right of private judgment; which claims not only the power to inflict temporal ills on those who dare question its infallibility, but also to entail future and eternal vengeance; whose prelates notoriously coerce politically as well as spiritually its followers; and which arrogates to itself, and actually exerts, a potent and malign political influence at war with the teachings of our Constitution and the essence of our government.

It matters not to the true patriot—to the thinking statesman—whether at any particular election they vote as he

deems right or not; their power is the same, the danger of its influence is as great, in which way soever it may for the time be exercised.

Witnessing this vast influence for evil, which is continually swollen by accessions from the old world, and seeing, year after year, the manifold dangers which not only threaten the future but are pernicious to the present, it seems strange that all who value the exhortations of the fathers of our country, the teachings of past history, or the repeated warnings of the present, do not unite to counteract this acknowledged danger. Our faith in a righteous cause, our trust in an overruling Providence, and the consciousness of the approval of many of the wisest and best of our fellow-citizens, should constrain us to unremitting efforts, and assure us of ultimate success.

This purpose cannot properly be deemed intolerant or oppressive, for it is not proposed to interfere in any way with any rights whatsoever, already acquired and at present existing. Every one now entitled to exercise the elective franchise, or to hold office, is to be, and should be, protected in those rights. It is merely desired to establish a legislative compact with the incoming race, that if they choose hereafter to make their home within our borders, they may do so, freely participating in our gratuitous educational privileges, protected by our laws, defended by our government, elevated by our republican institutions, but subject to the sole condition that they shall take no part in the selection of our rulers or the administration of our government, until they are fitted by experience to understand its workings and appreciate its blessings.

Not only our own interests, but theirs also necessitate this policy; the perpetuity of our political system demands it; the progress of humanity requires it; the teachings of our early statesmen inculcate it; the experience of our own lives teaches it; and our judgment, duty and patriotism all point to it as a primal, inevitable and absolute obligation.

In view of these considerations, I would earnestly urge your favorable action upon the two articles of amendment to the Constitution relative to the "Right of Suffrage," and the "Qualifications of Voters," which received the constitutional majority of the senate and two-thirds of the members of the house of representatives, present and voting thereon, at the last session of the legislature, and which consequently come before you at the present session.

There are two other amendments of the Constitution awaiting your consideration, that have also been affirmatively acted upon by one legislature, and which provide for districting the State for the choice of senators and representatives to the general court.

The present basis of senatorial representation is unjust and unequal, its arrangement giving an undue preponderance of influence to the voters of some of the counties. The proposed amendment remedies this unfairness by changing the basis of representation, and,—by the creation of single districts,—not only tends to secure abler senators, but prevents that opportunity for the combination of interests in procuring nominations, which now exists.

Our present house of representatives, unwieldy from its great number, is an excessive pecuniary burden; the number itself being a hindrance to enlightened legislation, necessarily procrastinating public business and prolonging the annual sessions, while the existing system of town representation is notoriously unfair and unequal in its practical workings. In one town a citizen can vote for but *two* representatives in ten years; in another for *four hundred and forty*; here a section is entitled to an annual representation for a given number of inhabitants, and there the same number authorizes three times that representation.

This aggravated evil and injustice, inherent in our present system, is recognized by the enlightened judgment of our wisest statesmen, as well as of the mass of our citizens. The remedy proposed by this amendment is simple and just, by giving to every voter an equal annual representation, and it was originally initiated and subsequently passed by the concurrent votes of members of every party existing in our Commonwealth. I therefore earnestly commend these last two amendments to your favorable action.

Our fathers wisely guarded our venerated Constitution from too sudden and inconsiderate changes, by requiring that all amendments should pass two successive legislatures and be ratified by the people. Two of these four amendments, and the substance of a third, have been twice adopted by different legislatures; the last two having been passed by one, defeated by the next, and revived again by the third, are now awaiting your action. It may well be suggested that not a word of them can be changed, nor a line expunged, without throwing them back again for another two years. It remains for you to say whether or not you are willing that our fellow-citizens should be permitted to express by their suffrages their wishes regarding them. If they

desire them, it is just that they should have an opportunity to say so; if they do not, they will defeat them.

In this connection it is appropriate to speak of the educational progress of our State during the past year; for our only hope as a nation, under the leadings of Divine Providence, is in the thorough enlightenment of all our people, since in ours, unlike every other system of government, the people constitute the Commonwealth. We rely not on navies or armies; not on colossal wealth nor profound learning; not on impregnable fortresses nor isolated situation; not on the splendid history of perished centuries nor the bulwarks of an hereditary feudalism and an established hierarchy; but on the elementary education of every individual by free schools, whose hand-book is the Bible, and which shall fit each rising generation to discharge understandingly the duty of self-government, imposed upon us all by the spirit of our institutions.

The amount of voluntary taxation the past year for the support of public free schools, has been \$76,500 larger than that of any previous year, besides individual subscriptions, amounting to \$38,500, for prolonging these schools beyond the period required by law; the average length of time during which they have been taught being seven months and sixteen days, or twenty-five per cent. longer than the law exacts. The sum expended for *building and repairing* public school-houses during the past year, reached the surprising aggregate of \$588,214. The census shows that there are in the State 222,853 children between the ages of five and fifteen, and the school returns exhibit the gratifying fact, that of this number, 172,455 have attended the public free schools, and 23,617 the private schools and incorporated academies. When the number is considered who are necessarily prevented by physical weakness, organic impediment, or other causes, especially at the earlier limit of age embraced in these tables, from availing themselves of our educational facilities, and the very considerable number, also, who are induced by circumstances to seek their instruction in adjoining States, we may congratulate our community that it has very nearly reached that period when the whole body of youth within its borders shall receive the blessings of education.

There has been a gratifying increase, also, in the number of teachers, and the very important undertaking of grading the schools has successfully advanced. Our normal schools are in a flourishing condition, and never before was there so large a number of pupils training to become teachers. I

would suggest no fundamental change or improvement in this interesting department of government, but can only urge the continued fostering of a system which has proved itself so eminently beneficial.

The State Library, since its establishment in 1826, has been crowded into inconvenient and unsuitable rooms, where the books were liable to injury from dampness and to destruction from fire. Within the past year it has been transferred to the beautiful fire-proof hall provided by the enlargement of the State House. The new apartment not only furnishes additional security for the preservation of the library, but ample accommodations, before altogether insufficient, for its present wants and prospective increase. Through the liberal appropriation of the last legislature this apartment has been suitably furnished, and its happy arrangement and architectural beauty render it attractive to visitors and a credit to the Commonwealth. Although the State Library has existed but thirty years, it contains nearly 12,000 volumes, and is of great importance to the legislature, to officers of the government and to the public, for purposes of consultation; for its value is not to be estimated by the number or cost of its volumes. It doubtless possesses the most complete collection in existence of State publications, especially of the annual legislation and legal codes of the several States of our Union, and additions are made only with reference to its special character and design. Its annual increase is mainly from exchanges with other States and the General Government, though in part also by the expenditure of a small appropriation from the State treasury. An increase in this appropriation will be desirable for the purchase of certain classes of works, whenever it shall be authorized by the financial condition of the Commonwealth.

The returns made under the Act approved May 21, 1855, to obtain statistical information relating to certain branches of the industry of Massachusetts, were communicated, at a late period of the session, to the last legislature. The secretary of the Commonwealth, in transmitting them, truly remarks: "While this report fails to do full justice to the productive industry of the State, it is believed to be more comprehensive and complete than either of its predecessors," and for reasons given, which are to my mind satisfactory, he estimates that the aggregate of value returned falls short of the reality about \$55,000,000.

Incomplete as statistics of this sort almost necessarily are, these exhibit a result highly gratifying, and a progress almost, if not quite unparalleled. The following table shows

the results of the returns of 1855, contrasted with those of 1845, giving the value of the product and the number of persons employed, classified under several natural divisions.

	1855.		1845.	
	Value.	Hands employed.	Value.	Hands employed.
Agricultural Productions,	\$62,853,488	{Whole No. (not given.	26,231,453	{Whole No. (not given.
Productions of Leather, .	51,684,530	79,501	19,169,788	49,094
Productions of Cotton, .	37,904,738	37,498	19,483,744	23,280
Productions of Metals, .	35,244,117	23,426	11,897,244	10,460
Productions of Wool, .	26,545,234	16,113	11,250,490	10,599
Products of the Sea, .	17,834,054	23,073	15,549,080	20,134
Productions of Wood, .	14,300,223	13,707	5,149,362	9,241
Vessels, Sails and Cordage,	8,420,958	5,490	2,161,411	1,828
Miscellaneous Productions,	41,033,339	37,502	13,842,692	24,036
	\$295,820,681	236,310	\$124,735,264	148,672

These tables exhibit an increase in the annual productions of the industry of the State, since 1845, of \$171,085,417, or one hundred and thirty-eight per cent., while the increase of population during the same period has been but thirty-four per cent. Such results are the highest evidences of universal, intelligent and well remunerated labor, of social progress, happiness and thrift.

Our agricultural interests take the lead in the aggregate of their products and the number of persons engaged in them, over either of the other classes in these tables. They constitute in every community the prime source of happiness and prosperity. Recognizing this broad truth, our Commonwealth has justly legislated to protect and foster her agricultural interests. The county agricultural societies have been made the almoners of her bounty, amounting now to about \$11,000 per year in premiums offered for superior excellence in the various departments of husbandry. The anniversaries of these societies, without exception, have been peculiarly successful and interesting during the year past, and they are pursuing their appropriate labors with diligence

and faithfulness, under the scrutinizing supervision of the central board. Two new county societies were incorporated at the last session of the legislature, and a limit in their number has now been reached, which your good judgment will probably consider ought not to be exceeded. Aside from the additional expense entailed upon the treasury by their farther multiplication, it may be questioned if subdivision into smaller bodies will not diminish that opportunity for comparing products and contrasting results, which now exists.

Under the direction of the board of agriculture the permanent improvements at the State Farm have advanced, and interesting experiments have been carefully made on cereals and root crops, as well as regarding neat stock, which in the results of a series of years will prove invaluable. About one hundred and fifty of the boys from the Reform School have been employed during the season on the farm, averaging six hours labor each per day, thus not only contributing to their present happiness and health, but practically educating them in a pursuit which will probably become the business of their future lives.

The Commonwealth now owns nearly three thousand mineralogical and geological specimens collected from all portions of the State, and forming a cabinet of great practical value. These specimens are now distributed for safe keeping among the collections of individuals and societies. She possesses also over one hundred specimens of the soil of different localities, with the analyses attached, and several hundred varieties of grasses and plants grown within her limits. It is proposed to add specimens of all other species of grains, grasses, and plants, indigenous or domesticated here, a collection of our birds, insects and fishes, and models of all our fruits properly labelled, thus forming a collection of our natural products of direct practical interest to the agriculturists of our State. To this end a trifling sum is wanted to furnish the room of the secretary of the board of agriculture with cases and other suitable fixtures, which appropriation I recommend.

At the last session of our legislature, an Act was passed, in conformity with the legislation of Maine, extending the time for the payment of sums due for lands sold in that State. Our land agent has collected during the year about \$10,000 of the amount overdue, and, in his judgment, not only is Massachusetts secured on every tract upon which she holds mortgages, but the sums now overdue will be paid within the period fixed by the present statute. If

they are not, in pursuance with the provisions of law, he will take possession in behalf of the Commonwealth, and the partial payments already made become forfeited.

The rebuilding of Charles River Bridge, which was originally chartered March 9, 1785, and became the property of the Commonwealth by purchase, under the Act of March 17, 1841, and the repairing of Warren Bridge, which was chartered in 1828, and surrendered by the proprietors to the Commonwealth in 1836, were authorized by the legislature under the provisions of the Act of April 29, 1854. The rebuilding of the former was finished upon the tenth day of August, 1855, at a cost of \$133,826.67, and the repairs of the latter were completed on the thirty-first of July, 1856, at a cost of \$65,494.80, which sums were obtained from the tolls levied upon the travel over said bridges, the aggregate of which is now about \$100,000 per annum. Under the provisions of the Act last referred to, these tolls are to be continued, until a fund of \$100,000, above the cost of rebuilding, shall have accumulated, which sum is to be appropriated in maintaining the structures in a proper condition. This sum will probably be received early in the year 1858, when the bridges will become free forever. The rebuilding has been completed in a substantial and durable manner, and it will be probably many years before any farther extensive repairs of either of these bridges will be found necessary.

On the 27th of August last, the opening of the Industrial School for Girls at Lancaster, was inaugurated with appropriate and interesting ceremonies. This institution is the first of its kind in America, and the appearance, sad history, ignorance and moral darkness of more than forty girls, two-thirds of whom are motherless, now collected within its influences, illustrate most affectingly its importance. Great interest is felt in this institution in other States, and continual inquiries and investigations are made, by letter or personal examination, regarding its practical workings. The neglected children of other Commonwealths may have reason to bless our State for the organization of this noble charity. Thus far the system adopted works admirably, and gives promise of the most happy results. Not one inmate has been received who would not, in all human probability, have been ruined, had not the State interposed its parental protection, and not one that does not give promise of becoming, under its family training, an instance and witness of its success.

Some misapprehension exists as to the appropriate subjects

for this school. They should not be hardened criminals, nor children of impaired or idiotic minds, nor confirmed invalids whose care is somewhat onerous to their parents. There are other and fitter institutions for all these, and the success and widest good of this school will depend on placing under its ministrations only those, whose unformed habits, intellectual activity and physical powers will enable them to reap the greatest benefits and blessings from its influences. I would especially impress on the various commissioners appointed to admit pupils, the deep responsibility resting upon them. To a great degree they hold the success or failure of the institution in their keeping.

It is believed that the full number of inmates that can be accommodated in the three houses, will be admitted within a few months, and after witnessing the anticipated results of the existing system, it is hoped that the noble generosity of some of our philanthropic citizens will link their names with this beneficent charity, by providing for the erection of further buildings, for many of which there is ample room upon the beautiful farm, which private individuals have already coöperated with the Commonwealth in purchasing. And unfortunately there are children within our borders who are the proper objects, and sufficient in number, to occupy such extended accommodations.

The same spirit and desire for excellence prevail among our Volunteer Militia, that have heretofore demanded my hearty commendation. The number of its enrolled members does not materially differ from that last reported, but a laudable attention to details and perceptible superiority in drill, discipline and soldierly bearing, mark their continued progress and increased efficiency. Various reforms which were adopted under my orders in 1855, have proved acceptable to the military and beneficial to the service. Upon the fidelity and exertions of the individuals composing our militia, its future welfare to a great extent depends; for while the Commonwealth makes liberal provision for its support, and our executive officers freely recognize its powerful influence in tacitly constituting the ultimate resort for the preservation of the peace of the community, our people will value and appreciate its benefits so long as its members exhibit the true characteristics of the citizen soldiery and the soldierly citizen.

The financial credit of our Commonwealth, in the money marts of the world, has been proverbial; her scrip, for many years, commanding higher prices than that of any of the other States of the Union. For a long period her ordinary

GOVERNOR'S ADDRESS.

receipts were ample to meet the expenditures, without the assessment of any State tax, but of late, her large disbursements, mainly on account of her legislative, educational, charitable, and reformatory institutions, have greatly outrun her receipts, till, for some years, a large and increasing annual tax has become necessary. The time has now fully arrived, not only for economy, but for retrenchment and reform, since without it, an annual State tax of some \$600,000 to \$800,000 cannot be avoided.

In proceeding to consider the financial condition of Massachusetts, it is proper to say that the statements and estimates, some of them necessarily approximate, were furnished by the treasurer and auditor before the close of the year, and are liable to variations when the actual and official results shall be ascertained, yet there is no doubt that they are sufficiently accurate as a basis for general estimates.

The actual expenditures and receipts for 1855 are contrasted with those of 1856, (mostly actual, though a portion necessarily estimated,) and with the estimates for 1857, in the following table:—

Expenditures for 1855 and 1856, contrasted with Estimates for 1857.

	1855.	1856.	1857.
Legislative and Executive, .	\$170,959 43	\$512,400 00	\$481,400 00
Scientific and Educational, .	19,889 18	19,420 00	18,350 00
Charitable and Humane, .	339,899 94	300,000 00	303,400 00
Military,	78,339 48	75,250 00	76,000 00
Reformatory and Correctional,	238,599 14	196,300 00	261,650 00
Interest,	113,150 48	153,900 00	135,000 00
Public Buildings,	150,400 17	78,350 00	- -
	\$1,411,237 82	\$1,335,620 00	\$1,275,800 00

GOVERNOR'S ADDRESS.

Receipts for 1855 and 1856, contrasted with Estimates for 1857.

	1855.	1856.	1857.
Bank Tax,	\$578,983 30	\$583,500 00	\$585,000 00
State Tax,	428,108 00	600,000 00	- -
Insurance Tax,	1,258 15	2,200 00	2,000 00
Alien Estates,	773 15	900 00	1,000 00
Alien Passengers,	15,848 62	16,800 00	15,000 00
Income Western R. R. S. Fund	61,897 00	61,700 00	30,000 00
Western Railroad Dividends,	49,392 00	49,392 00	49,000 00
Interest on Deposits,	792 48	1,500 00	1,000 00
Hawkers and Peddlers,	- -	506 00	300 00
Courts of Insolvency,	- -	115 00	12,000 00
Attorney for Suffolk County,	3,719 40	530 00	{ Now goes to the City of Boston.
Premium and interest accrued on Scrip sold,	4,803 06	12,600 00	- -
Charles River and W. Bridges,	- -	9,530 00	- -
Sundry Accounts,	2,241 04	4,250 00	- -
State Tax, probably remain- ing unpaid, Jan., 1857,	- -	- -	56,000 00
Cash on hand,	18,609 60	109,037 00	- -
	<u>\$1,166,425 80</u>	<u>\$1,452,560 00</u>	<u>\$751,300 00</u>

Expenditures for 1855, \$1,411,237 82
 Receipts for 1855, 1,166,425 80

Excess of Expenditures over Receipts for the year 1855, \$244,812 02

Expenditures for 1856, \$1,335,620 00
 Receipts for 1856, 1,452,560 00

Estimated excess of Receipts over Expenditures for 1856, \$116,940 00

GOVERNOR'S ADDRESS.

Estimated ordinary expenditures for the year 1857,	\$1,275,800 00
“ “ receipts for the year 1857,	751,300 00
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Showing a probable deficit in the ordinary expenses of the year 1857, of	\$524,500 00
Add State Reform School Scrip, falling due Oct. 4, 1857,	25,000 00
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Which shows an estimated deficiency for the year 1857, of	\$549,500 00
The accumulated unfunded debt previous to January 1, 1856, amounted to	662,337 00
There should be added, for payments made upon the Western Lunatic Hospital,	\$125,000 00
Less amount paid during year 1855,	20,000 00—105,000 00
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In all, amounting to	\$1,316,837 00
Against this we have—	
Estimated excess of receipts for the year 1856,	\$116,940 00
Six per cent. Scrip authorized and sold in 1856,	300,000 00
Five per cent. Scrip sold in 1856,	70,000 00
“ “ “ on hand, unsold, but upon which money has been advanced, for the Western Lunatic Hospital,	125,000 00—611,940 00
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Which shows the estimated amount of floating debt at the close of 1857 will be	\$704,897 00

From this balance is to be deducted the amount of cash which may be in the Treasury at the close of December 31, 1856.

The pleasing features of the picture thus presented are, that in every branch of expenditure but two, a considerable saving has been effected in 1856, as compared with the year previous, amounting in the aggregate to over \$156,000; and that while the total ordinary expenses of 1855 exceeded the total ordinary receipts in the sum of \$244,812, the aggregate ordinary receipts of the past year exceed the aggregate ordinary expenses by \$116,940. The two items of expense which are this year increased, are “legislative and executive,” which is about \$42,000 larger, owing to the unprecedented length of the last session of the legislature, and the charge for “interest,” which is nearly \$41,000 in excess over that of the previous year, in consequence of our added permanent and temporary loans. The excess of these two items being deducted, there appears to be a net relative gain in the balance of the last, as compared with the previous year, of over \$288,000. This gratifying result has not been attained without constant and praiseworthy efforts on the part of many of the officers of the Commonwealth, and more especially the ceaseless vigilance and firmness of the auditor of accounts, to whom the State owes a debt of obligation, which fully merits my official recognition.

The most unpleasant features in this financial survey, are the facts that our current expenditures largely exceed our ordinary annual income, and that notwithstanding \$300,000 of our floating debt was funded by the action of the last legislature, and thus passed into our permanent loan, it will amount, at the close of this year, to \$600,000.

It is apparent, then, that our duty as statesmen and legislators demands that we shall proceed to abolish every unnecessary or questionable office, place new checks against useless expenditure, and retrench the cost of every branch of the government, where necessity or humanity does not forbid. I hesitate not to declare that I deem it my imperative duty to refuse the sanction of my signature to any Bill which contemplates the unnecessary expenditure of money.

I deem it also my duty,—though in some respects an ungracious one,—to suggest certain points wherein, in my judgment, a pecuniary saving to the Commonwealth can be made. Some of my positions may be erroneous, some of them may be controverted, but my purpose has the sanction of my judgment, and I submit them to your consideration with the conviction that your intelligent action will produce desirable results. Neither do I impute blame to any officer or any department, but simply suggest whether changes or reforms may not be introduced without detriment to the public interests.

The first and greatest item wherein retrenchment and reform should be commenced, is the legislative expenses. I have elsewhere spoken of the pending constitutional amendments, reducing the size of the house of representatives, which, in an economic view, is of paramount importance. Aside from the per diem pay of its members and officers, however, great expenses are incurred by the enormous and unnecessary length of the legislative sessions.

The payment of its members amounted, in 1856, to about . \$200,000 00
And, in addition, a very considerable portion of the following sums accrued from its session:—

Executive Council,	\$9,000 00
Fuel and Lights,	2,700 00
Stationery,	8,800 00
Newspapers,	8,800 00
Daily Journal of Proceedings,	4,000 00
Postage,	1,600 00
	34,900 00
Besides salaries of officers, printing, and Index and Journals, amount to probably	30,000 00
Being a total of about	\$264,900 00

My duty constrains me to say, that if proper efforts are made to bring about a short session, in conformity to the desires of our citizens and the demands of our treasury, our legislative expenses, and consequently our State tax can be diminished this year \$100,000 in amount.

I earnestly recommend the discontinuance of the printed daily Journal of Proceedings, as I deem its utility not commensurate with its cost.

I renewedly suggest the abolition of the office of land agent, and that its comparatively few duties be devolved upon the treasurer.

The expenses in the office of the secretary of state have very much increased within a few years, and I am happy to be informed that in his annual report, that officer will announce prospective reforms whereby a saving of some \$7,000 per annum can be made, or fully one-third of the expense of his department.

The last legislature amended the Act establishing the board of alien commissioners, by substituting in the place of a member of the executive council, a commissioner who should devote his whole time and attention to its duties, and its powers were essentially enlarged. I now advise that the boards of inspectors of the State almshouses be abolished, and that the general powers conferred on them be given to the board of alien commissioners. The salaries received by the inspectors are small, but the amount of pay some of them draw from the treasury for various services rendered, is, in the aggregate, quite considerable. No person in the employ of the State should buy supplies of himself for the Commonwealth, or hire his own labor to it as a contractor or superintendent. Moreover, the interests of the institutions will be subserved, in my judgment, by the supervision of a central board, cognizant of the condition and operations of each of the others, better than by a local one familiar alone with its own. Especially would I recommend that the board of alien commissioners be invested with the duty of visiting the various institutions to ascertain whether superfluous officers are employed, or disproportionate salaries paid, with authority to correct the evil or to report to the governor and council.

I advise farther, that all supplies of food, clothing, stock, implements, fuel and other articles, be procured hereafter in all instances by public advertisement for sealed proposals from the lowest bidder, subject to suitable and proper restrictions, in the same manner as the general government obtain their naval and army supplies. This enactment might

extend to the four State Almshouses, the three Lunatic Hospitals, the State Prison, the Reform School for Boys, and the Industrial School for Girls, either under the direction of a competent board for the whole, or of the trustees of each institution for itself, as the wisdom of the legislature may deem proper.

I also recommend that the care of the public buildings be taken from the joint standing committee thereon, and that their authority to sit during the recess of the legislature be discontinued, and that all repairs be made by the direct action of the general court.

I advise that the grant of \$2,500 paid by the State to the society for the prevention of counterfeiting, under a Resolve expiring this year, be not renewed. There are other societies for the prevention of vice and crime, that might, with perhaps equal justice, ask aid from the State, and this is not so paramount a claim as to justify the continuance of the appropriation. The banks of Massachusetts, paying into her treasury a tax of almost \$600,000 for the privileges they enjoy, with their enormous capital, and generally large dividends, do not need this sum from our exhausted resources. But it may well be questioned whether the money is expended according to the design of the legislature in making the grant. Of the \$5,004.60 spent by the society, it appears that one individual was paid over \$1,000, another over \$400, and a third more than \$300 for services and expenses in attending meetings of the board. An analysis of the returns shows that certain bank officers received—

For services and travel,	\$2,418 10
Printing and Stationery,	809 68
Rent,	48 00
Advertising,	212 50
And for rewards and awards, only	1,486 32
	<hr/>
	\$5,004 60

The stationery purchased by the clerks of the two branches for the use of the legislature, costs about \$7,000 per annum. There has been unnecessary wastefulness in this branch of expenditure at times heretofore, and I suggest that such purchases be hereafter made only under the sanction of some one of the standing committees of the legislature.

About \$20,000 has been paid from the treasury for indemnification of officers for costs under that portion of the law relative to the sale of spirituous and intoxicating liquors, which has been pronounced unconstitutional, and the audi-

tor estimates claims amounting to \$5,000 more, in the expenses of 1857. The limit of time will soon expire for such claims, and I recommend that it be not extended.

A petition was presented to the last legislature by the city of Boston, for an allowance to meet the expenses of the municipal court, founded upon the provisions of the eighteenth section of chapter 449, Acts of 1855. The petition was not granted, but the treasurer of the city of Boston has paid into the treasury of the State the amount of tax levied upon the city, less a bill of about \$42,000 for the expenses of that court during nine months of the past year. The subject should receive your early attention, and the law made so explicit that the duty of the officers of the State may be rendered clear. There appears to be injustice in requiring the city of Boston to pay its share of the expenses of the court of common pleas, which has no jurisdiction within its limits, and also the whole cost of its local courts established in its place and largely contributing to relieve both the common pleas and supreme court of a portion of their onerous duties and accumulated business.

Considering the policy of supporting our foreign paupers in State almshouses to be as yet an undetermined question, so far as expense is concerned, and believing it inexpedient to incur farther cost in buildings, which experience may prove will fail to meet the expectations of the originators of the system, I emphatically advise that no money be expended upon them in farther permanent improvements, and I recommend that the board of alien commissioners be clothed with power, subject to the approval of the governor and council, to diminish the cost of this branch of expenditure, by closing one or more of them, and distributing the occupants among the other almshouses, whenever the public interests and the welfare of the inmates will justify the measure.

The cost of "Commissioners for various purposes," amounted in 1855 to \$14,568, nearly all of whom were appointed by my predecessors, while in 1856 it amounted to only \$4,400. I advise great prudence in creating new commissions, and if any may be deemed necessary, would suggest that they should be limited to as small a number as is consistent with the discharge of the duty required to be performed.

The work of printing the Plymouth Records has steadily advanced, and the six volumes of Court Orders are completed and will be ready for distribution in a few days. One volume of the Miscellaneous Records is in press, and the four volumes of Wills have been copied in manuscript in a

permanent form. The other volumes of Deeds and Laws are of less interest, and the volume of the Records of the Commissioners of the United Colonies has been printed in Hazard's State Papers. I therefore recommend that the secretary of state be directed to discontinue the work on the completion of the volume of Miscellaneous Records; in which case this item of expenditure will cease.

In view of the condition of our treasury, and the circumstance that the annual grant of \$3,500 to the Female Medical Education Society can hardly be defended on the ground of absolute necessity, I recommend that it should be discontinued.

By the provisions of an Act of the legislature of 1854, 2,944 shares of the Western Railroad stock were transferred to the School Fund, thus diminishing our annual revenue about twenty thousand dollars. One-half of the income from this fund, which amounted on the first of January, 1856, to about \$1,626,000, is divided among the towns, and from the other half all sums expended for educational purposes being taken, the balance is transferred to the credit of the fund. The amount so transferred, as stated in the auditor's report for the last year, was about \$13,500. It thus appears that one-half of this income is practically deducted from the assessed taxes of the various cities and towns, and the balance goes to enhance the principal of the School Fund. I advise that the Act referred to be repealed, and thus give the State an increase of \$20,000 in her annual income. The amount divided among the towns the past year was about twenty cents per child, and if the Act be repealed, it will amount to about fifteen cents, a sum amply sufficient to secure full educational returns, which is the main practical benefit now derived from this expenditure.

The adjutant-general has made, in his annual report, which will be transmitted to the two branches, certain suggestions, in all of which I fully concur, whereby an annual saving to the treasury of at least \$20,000, or nearly one-third its present cost, can be made in his department, without in any way impairing the efficiency of our military system.

Having thus briefly referred to certain particulars wherein judicious retrenchment can be introduced without detriment to the public interests, it becomes my duty to allude to another and no less important view of the financial affairs of the State. During the year 1857, the following portions of the funded debt of the Commonwealth become due:—

State Reform School Scrip, due October 4, 1857, . . .	\$25,000 00
Eastern Railroad Bonds, due July 1, 1857, . . .	100,000 00
Norwich and Worcester Railroad Bonds, due July 1, 1857, . . .	400,000 00
Boston and Maine Railroad Bonds, due August 1, 1857, . . .	100,000 00
Western Railroad Bonds, due July 15, 1857, . . .	995,000 00
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	\$1,620,000 00

The first item is included in the estimated expenses of 1857, and it is presumed will be paid from the current revenue. The next three liabilities arise from the indorsement of the State for the railroads mentioned; to secure each of which it holds a mortgage upon the road, and also a large amount of stock in pledge. These three corporations will doubtless pay their scrip at maturity, and relieve the Commonwealth from its obligations in their behalf, the Norwich and Worcester being aided in so doing by an indorsement of the State upon its bonds for \$400,000, having twenty years to run, in accordance with the legislation of 1854.

The last amount is for bonds issued to pay the Commonwealth's subscription for ten thousand shares in the stock of the Western Railroad, and a sinking fund was provided to meet it at maturity. This fund has always been relied upon as amply sufficient for this purpose; and it amounted nominally, on the first of December, 1855, to \$1,107,327.26, as appears by the annexed schedule, showing a surplus of \$112,327.26 over the sum it was intended to liquidate:—

Notes for Land sold in Maine,	\$128,081 21
Five Per Cent. Scrip of the State of Maine,	125,000 00
Notes and Mortgages,	138,885 00
Notes with collateral and with sureties,	153,100 00
County, City and Town Scrip,	150,400 00
Western Railroad stock, at par,	94,300 00
Massachusetts Five Per Cent. Scrip,	106,202 28
Western Railroad Scrip,	118,000 00
Norwich and Worcester Railroad Scrip,	3,000 00
Boston and Maine Railroad Scrip,	2,000 00
Cash on hand,	60,662 86
Western Railroad Sinking Fund Rights,	27,695 91
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	\$1,107,327 26

Of this sum, \$495,000, only, are available to meet this payment, or will probably be realized as cash during the year 1857. An examination shows that the investments were made with but little apparent reference to the period when their proceeds would be needed—that more than half of them were unavailable without sacrifice in their sale—that more than one-quarter of them are in mortgage notes,

the larger proportion of which have been long overdue, many of them from five to ten years—and that there is reason to fear on some portion of the investments made many years ago there must be an ultimate loss. The balance of available means to pay the bonds falling due in July can be drawn by the treasurer, under existing statutes, from the school fund, transferring to that fund the balance of the investments from the Western Railroad stock fund, which are ample security for the amount needed.

More particular reference has been made to this sinking fund, in order to impress upon the legislature the importance of limiting by statute the nature of the securities in which our public funds shall be hereafter invested. It is a truism in finance which does not need elaboration, that no security is so good to a solvent individual as his own obligation. Let preference, then, be given to our own State scrip in the investment of our school and sinking funds—selecting next our county, city and town bonds, and then the obligations of other States, counties, cities and towns in New England. If such a disposition of our invested funds be required by law, the special securities being left as they now are to the discretion of the treasurer, subject to the approval of the governor and council, instead of the wide range of real, personal, and stock collaterals heretofore permitted, there can be little doubt of greater security and more available assets.

During the past year, the alien commissioners have vigorously but humanely pursued their duties, and relieved the State from a large expense in the support of paupers who have no settlement within its limits, and not a particle of rightful claim upon its treasury. One thousand and seventy-three paupers have been sent from the State institutions to those places beyond our limits where they have settlements, and the residences of thirty-three lunatics who were in our insane asylums have been discovered, and these unfortunate persons been conveyed to the charge of competent relatives, or of their native towns, for support.

By the judicious measures of this board, the State has been saved from a very large expenditure, probably not less than \$50,000 for the past year, which it would otherwise have necessarily incurred from the support in her institutions of this large number of paupers and lunatics. There has been a small decrease in the number of inmates of the four State almshouses within the year just closed.

The commissioners relative to the artificial propagation of fish are making interesting experiments at a suitable stream

in the town of Sandwich ; but, as the season for testing the results of these experiments has not yet arrived, no report has been received from them.

I would call the particular attention of the legislature to that class of persons confined in our institutions who are designated as insane criminals, confining the designation strictly to those who were criminals before and independently of their insanity. I am advised that there are several of this class transferred from our correctional institutions to our insane asylums, who daily peril the lives, not only of their officers, but of their inmates ; and being necessarily less securely confined than it is proper they should be, also endanger the safety of the community.

There is no duty more sacred than the suitable protection of the lives of those officers whom we intrust with the care and custody of the criminal and the insane, of which the recent terrible catastrophe at the State Prison painfully reminds us. I leave the subject to your good judgment, confident that your convictions accord with mine as to its importance.

The startling intelligence of the cold-blooded and shocking murder of the warden of the prison, a murder paralleled in atrocity only by that which struck down his deputy, communicated to me as I was finishing the preceding sentence, invests the foregoing suggestions with tremendous emphasis, and calls for your immediate and decisive action.

Notwithstanding the amendment to the Constitution, declaring that all civil officers elected under its provisions shall be chosen by a plurality of votes, the law still requires the returning authorities to state the whole number of ballots given in for each class of officers at every election. This provision, necessary under the majority system, has now become superfluous, and as it occasions very considerably increased trouble and delay, both to town officers and the board of canvassers, without apparent corresponding benefit, I recommend its repeal.

I am advised by the commissioners for the revision of the statutes, that they commenced their arduous labors as soon as possible after their appointment, and have continued them with such diligence as the nature of the case admitted. They have endeavored, in the first place, by a careful examination of the legislation of the year 1836, and of each year subsequent thereto, to ascertain in what manner, and to what extent, that legislation had affected the body of the law comprised in the Revised Statutes ; and in the next place to determine in what connection such portions of the

Acts passed since the Revised Statutes were enacted, as still remained in force, should be incorporated with the previous legislation; making such changes in the general arrangement of the statutes, as seemed to be necessary for that purpose.

It remains to draw the Bills in a compact form, and this the commissioners are now proceeding to do.

Unless the legislation of the present winter should render necessary an extensive rearrangement of the work already done, the commissioners hope to be able to place the matter in the hands of the printer in the course of the month of July, and have their final report ready for the action of the legislature at the commencement of the next session; which probably is quite as early as any one, who is fully aware of the extent of the labor and care required, could reasonably have expected.

A statute creating courts of insolvency was enacted at the last session, and in accordance with its provisions, such courts have been organized and are now in successful operation. This new system, adopted by the legislature with no little unanimity, bids fair to secure a uniform, vigorous and independent administration of this important department of the law. On this account it is regarded with great favor by the business men of Massachusetts, and it has also attracted the attention of very many leading merchants in the great States of New York and Pennsylvania, who have had opportunity to observe its beneficial effects. Copies of our insolvent statutes have been obtained by them, to be used as a basis for similar systems in those great commercial and business centres.

From a cursory examination of the returns of insolvent cases, and an approximate estimate from these statistics, the results arrived at will probably excite surprise. During the year ending with April, 1855, there were rising six hundred and fifty cases, and during the succeeding year, ending in April, 1856, about six hundred. If the legislature should deem it proper that these courts, intrusted with interests of such magnitude, and bringing within their jurisdiction, either as debtor or creditor, so large a number of our citizens, should be placed upon a different footing from our other courts, with reference to their expenses or the income to be derived from them, a slight increase in their present tariff of fees will not only render them self-supporting, but a source of revenue to the treasury, and still leave a considerably smaller pecuniary burden on the estates than was imposed by the former rate of taxation.

The aggregate amount of the salaries of the judges and registers, is \$27,800; while assuming sixty dollars as the amount paid in each case, under the old system, a sum believed to be lower than the actual average, six hundred cases would yield \$36,000, and six hundred and fifty cases \$39,000. These approximate results may be tested by actual returns, or by facts easily obtained from the officers who have administered and now administer the insolvent laws. As no return of fees will be made until cases are closed, if you judge it expedient to take action upon this matter, it is to these sources of information that I would commend your attention. And if increase of fees should be found advisable, I would suggest, that it would be but equitable, that while the present rates should be retained as to the smaller estates, the added fees should be borne by the larger estates, which involve a corresponding increase of labor, difficulty and responsibility in the administration of the law, in their settlement.

The legislature of 1856, appointed a joint committee to consider the subject of the lands in the Back Bay, who have, from time to time, pursued their labors during the recess, in conjunction with the commission previously in existence. There have been perfect harmony and concurrence between the legislative committee and the commissioners, and the results which they have attained have received the unanimous support of the whole body. They have been able to make very substantial progress in the settlement of difficulties surrounding a subject in which the Commonwealth is deeply interested, and which promises to bring a large revenue to the State treasury at no distant day.

The most important results reached by them are included in two formal instruments, which, in accordance with the provisions of the Resolves under which they acted, were submitted to the governor and council, both of which instruments have been ratified and approved by them. One of these was a supplementary indenture with the Boston Water-Power Company, the owner of half the lands in the Back Bay, and equally interested with the Commonwealth in their improvement; the other was a tripartite indenture between the Commonwealth, the Water-Power Company and the city of Boston. These two instruments settle all points of difference, and remove all obstacles to which any importance is attached. The claim of the city of Roxbury to the ownership of a portion of the territory, which claim is denied by the most eminent legal advisers, whose services the Commonwealth and Water-Power Company have been able to

obtain, will probably be decided by the supreme judicial court before the expiration of the present year, and whatever may be the result, it cannot vitiate or render useless the proceedings already had.

The indentures mentioned, while giving to other parties all the facilities which they require, or to which they are of right entitled, secure to the State all the points deemed necessary before proceeding to fill in the lands and make them available for the market. A magnificent plan for laying out the territory is proposed, which, as it progresses, will render the lots very attractive and immediately salable, for responsible parties are now known to be awaiting the opportunity to make purchases. It will be observed the committee recommend that a pecuniary appropriation be placed at the disposal of the commissioners, to enable them to fill in a portion of the lands, which sum will be returned with profit to the treasury as the sales are made. The plan of paying for filling by grants of a part of the flats, it is thought would prove more expensive to the State, especially if the parties who are willing to contract for filling know that the hands of the commissioners are tied, and that they cannot offer the alternative of a cash payment in case they think the terms otherwise proposed are onerous. The property of the State in the Back Bay, estimated at millions by the rates at which similar lands in the same vicinity have recently been sold, seems to be an interest of sufficient magnitude to justify a limited expenditure in preparing it for the market.

A portion of the lands included in this tract lies within the limits of Boston, and another portion within the boundaries of Roxbury. The line between the two cities is arbitrary, irregular and inconvenient. The Boston sewers must pass through Roxbury for suitable drainage, and all that portion comprised within the latter city will be deprived of much of its value to the Commonwealth, unless supplied with the Cochituate water, the exclusive property of the former. I therefore advise that the boundary line be changed, so as to bring the whole, or nearly all the tract to be filled, within the jurisdiction of the city of Boston.

The resolves in relation to the Territory of Kansas, passed by the last legislature, in accordance with the request contained in them, were transmitted to the executives of the different States. The copy addressed to the governor of Alabama, was returned to me by him, accompanied by an unwarranted and an undignified communication, in which he expressed a desire for no further intercourse with Massachusetts. I deemed it my duty, in calm and courteous,

though plain language, to reply, defending the honor and dignity of our State, both from his direct charges and covert inuendoes. A second communication was received from him, the tone and style of which precluded any rejoinder.

The copy of the same resolves sent to the governor of the State of Mississippi, was also returned, accompanied by a letter unexceptionable in its phraseology, and by a preamble and resolutions adopted by the legislature of that State, directing its governor in all instances to return resolves on the subject of slavery, passed by the legislatures of the free States, to the executive magistrate from whom they were received.

Massachusetts is consciously too secure in her position, both in the triumphant present and in the unalterable record of the past, to be at all affected by any exhibition of bad taste on the part of those to whom she addresses herself. And she cordially invites, as she confidently will continue to send forth, any such communications, and assures her affiliated States, that so far as she herself is concerned, they shall be received, however opposed to her sentiments or her policy, in the proper spirit, and with the accustomed comity of nations.

Gentlemen:—

I can but recognize with grateful obligation my renewed election to this post of varied responsibility by such an unprecedented majority, as a testimonial of the approbation by my fellow-citizens of the manner in which my sincere efforts have been devoted to the execution of the labors devolved upon me. Three times have I been called by the suffrages of her people to the honorable office of chief magistrate of my native and much loved State. In the discharge of its responsible and multifarious duties which necessarily develops a conflict of opinion, whenever my course of action has not commended itself, as from the nature of things was impossible, to the favorable judgment of all, it has been, and ever will be, an abundant satisfaction that the consciousness of my own integrity of purpose has sustained me, and that, in the end, the approval of so many of my fellow-citizens has affixed their sanction, both upon my motives and my acts. I gladly avail myself of this opportunity to earnestly thank them for their confidence, and to announce my intention of not again allowing myself to be a candidate for reelection.

But while it falls to my lot to perform the functions of this office, I shall strive steadily to follow my convictions of

duty in the time to come, as I have in the past, and to endeavor so to act, irrespective of mere considerations of personal popularity or party interest, as to advance the welfare of all our citizens, and the honor of our Commonwealth. To this end let me solicit your coöperation, with the confident hope, that by the favor of Divine Providence, our united deliberations and action may be blessed in their results to our common constituency and honored State.

SPECIAL MESSAGES.

THE FOLLOWING SPECIAL COMMUNICATIONS WERE MADE BY HIS EXCELLENCY THE GOVERNOR, TO THE LEGISLATURE, DURING THE SESSION ENDING MAY THIRTIETH.

[To the House of Representatives, January 10.]

It becomes my duty to make the following statement of facts to the legislature. While deeply regretting its necessity, there appears to me no other way whereby I can do justice to the confidence reposed in me, and, at the same time, exonerate myself from blame in the transaction :

By chapter 17, Resolves of 1856, the clerk of the house of representatives was authorized to cause to be completed, an index of the journals and a catalogue of the papers on file, provided the cost of the same should not exceed \$3,000. Before I gave my assent to this Resolve, I obtained the written statement of the clerk of the house that the work could be performed for the sum specified.

Owing to an obscurity in its phraseology, as to the period when the money should be paid, the auditor addressed the legislature on the subject, which body, thereupon, passed chapter 40, Resolves of 1856, in the following words :—

Resolved, That the clerk of the house of representatives for the time being, cause to be completed, under his supervision, the general index of the journals of the house up to the close of the present session, and also prepare a catalogue of the papers on file in the house, and make an index of the same similar to the indexes and catalogues of the senate ; the whole expense of the work hereby authorized to be done not to exceed the sum of three thousand dollars ; and the governor is hereby authorized to draw his warrant, for the payment of the expenses already incurred in the work aforesaid, under the Resolve relating thereto, approved April 5, 1856. And the governor is further authorized, as said work progresses, to draw his warrant for paying the expenses of the same in monthly payments.

Resolved, That the Resolve concerning the journals and papers of the house of representatives, approved April 5, 1856, be, and hereby is, repealed."

In conformity with these provisions, a warrant was approved by the council and signed by myself, for \$600, on the 5th of May, to pay for "expenses already incurred in the work aforesaid," as appeared by bills rendered and approved by W. E. P. Haskell, clerk of the house.

On the 9th of June, a warrant for \$423, founded on bills rendered and approved by Mr. Haskell, was passed by the council, and signed by myself.

On the 2d of July, further bills for \$364, were presented, but I refused to sign the warrant therefor, until I received a certificate in writing, from Mr. Haskell, that the work was progressing in proportion to the payments made thereon. My messenger returned with the statement that Mr. Haskell was absent, but that a certificate to the effect desired would be given me by his assistant, Mr. Gifford, if it would be satisfactory. I replied that it would be, when the following statement was sent me, upon which I signed the warrant.

[Copy.]

BOSTON, July 3, 1856.

I hereby certify that, in my opinion, the work has progressed in proportion to the amount expended for the same.

S. N. GIFFORD.

On the 1st of August, bills to the amount of \$502, were presented, and on a certificate similar to the above, from Mr. Haskell, were paid. This certificate cannot now be found, having probably been mislaid in the office of the secretary of state, where the warrants are kept on file.

On the 30th of August, farther bills amounting to \$304, were presented, and on sending for the certificate, the following was received and the money paid.

[Copy.]

I hereby certify, that the work on the Indexes of the Journals of the House of Representatives, &c., is progressing in conformity with the Resolve of 1856, chapter 40, to the best of my knowledge and belief.

W. E. P. HASKELL, *Clerk House of Representatives.*

STATE HOUSE, August 30, '56.

To His Excellency, HENRY J. GARDNER.

On the 30th of September, additional bills for \$610, were presented, and on again sending to Mr. Haskell, I received the following certificate, and issued the warrant.

[Copy.]

This is to certify, that the work on the General Indexing of the Journals of the House of Representatives, has progressed equivalent to the moneys paid therefor.

W. E. P. HASKELL.

September 30, 1856.

On the 31st of October, a claim was presented for \$197, being all the balance of the sum of \$3,000 appropriated. I sent for a certificate and the following was returned to me.

[Copy.]

This is to certify, that the work on the General Indexing of the Journals of the House of Representatives, and the Catalogue and Index of the papers, has progressed equivalent to the moneys paid therefor.

W. E. P. HASKELL, *Clerk House of Representatives.*

October 31, 1856.

I sent my messenger at once with the reply that the certificate was not satisfactory, inasmuch as the whole sum would be exhausted by this payment, but if he would certify that the work was done, I would sign the warrant for the balance. A message was received from him that he could not give such a certificate.

I immediately brought the subject to the attention of the executive council, at whose suggestion a committee of their number was appointed to investigate the progress of the work. By vote of the council, I am permitted to subjoin a copy of their report.

[Copy.]

COMMONWEALTH OF MASSACHUSETTS.

EXECUTIVE DEPARTMENT, COUNCIL CHAMBER, }
Boston, 12th December, 1856. }

The Committee of the Council to whom was referred the bill of W. E. P. Haskell and others, for services rendered on Indexing the Journals and papers of the House of Representatives, under a Resolve of the legislature passed May 3, 1856, report:—

That they find in the Resolve referred to, a provision in these words: "The whole expense of the work hereby authorized to be done, not to exceed the sum of \$3,000, * * * and the governor is further authorized, as said work progresses, to draw his warrant for paying the expenses of the same, in monthly payments." Your committee find that the bill submitted, together with the payments heretofore made, will exhaust the appropriation made under the Resolve.

Your committee made inquiry of Mr. Haskell, the Clerk of the House of Representatives, who had the work in charge, to ascertain if the work authorized had been completed; that officer stated to the committee, that while he denied the right of the governor to interfere with his duties, or our privileges, as a committee, to institute the inquiry, he would, as citizens, give us all the information we might desire.

Your committee, after this denial of *right*, did not, of course, care to press the investigation farther than to learn that the work was about one-

third completed, and still progressing; the clerk stating that, at the commencement, he knew that the sum appropriated was insufficient for the contemplated work, and should rely upon the legislature for compensation for services rendered, beyond the appropriation already made, and this, notwithstanding his certificates had been given, from time to time, that "the work was progressing in conformity to the Resolve." In view of all the facts in the case, your committee would recommend that no further payments be made on account of the work, without the sanction of the legislature.

Respectfully submitted,
J. G. PEABODY, *for the Committee.*

Since the date of the above report, December 11th last, I have no positive information of the progress of the work.

[To the Senate, January 10.]

I transmit herewith, for the use of the legislature, a communication from Issachar J. Elliott, esq., relative to the Dudley Indians.

The suggestions of the guardian of these Indians are entitled to grave consideration, and although personally but slightly acquainted with their condition, I am satisfied the lingering half-breed and mixed remnants of this, and other tribes, do not now possess those physical comforts or intellectual and religious privileges they would enjoy were they to become inmates of one of our State institutions. Without expressing any opinion upon the expediency or propriety of such removal, I commend the whole subject to your consideration.

[To the Senate, January 10.]

I herewith transmit, for the use of the legislature, the following reports, which have been received by this department of the government, viz. :—

1. Report of the Trustees of the State Lunatic Hospital, at Northampton.
2. Reports of the inspectors, superintendent and physician of the State Almshouse, at Bridgewater.
3. Reports of the inspectors, superintendent, physician and chaplain of the State Almshouse, at Tewksbury.
4. Reports of the inspectors, superintendent and chaplain of the State Almshouse, at Monson.
5. Reports of the trustees and superintendent of the State Lunatic Hospital, at Worcester.
6. Report of the adjutant-general.

[To the House of Representatives, January 10.]

I transmit, herewith, for the use of the legislature, the tenth annual report of the trustees of the State Reform School, at Westborough, with the accompanying reports of the officers of the institution.

[To the Senate, January 12.]

I herewith transmit, for the use of the legislature, the third annual report of the trustees of the State Lunatic Hospital, at Taunton, with the accompanying reports of the officers of the institution.

[To the House of Representatives, January 12.]

I transmit, herewith, for the use of the legislature, the annual report of the Commissioners of Pilots.

[To the House of Representatives, January 13.]

I herewith transmit, for the use of the legislature, the reports of the inspectors, warden, chaplain and physician of the State Prison.

[To the House of Representatives, January 14.]

I transmit, herewith, for the use of the legislature, the annual report of the land agent.

[To the House of Representatives, January 16.]

I transmit, herewith, for the use of the legislature, the report of the agent of Charles River and Warren Bridges.

[To the House of Representatives, January 17.]

I transmit, herewith, for the use of the legislature, the annual report of the superintendent of alien passengers.

[To the Senate, January 27.]

I transmit, herewith, for the use of the legislature, the fifth annual report of the commissioners on the Back Bay. Also, the third annual report of the inspectors of the hospital at Rainsford Island.

[To the House of Representatives, January 27.]

I transmit, herewith, for the use of the legislature, the report of the trustees of the State Industrial School for Girls, with the accompanying reports of the officers of the institution.

[To the House of Representatives, February 2.]

I transmit, herewith, for the use of the legislature, the report of the commissioners appointed under Act of 1855, for the erection of a third hospital for the insane.

SPECIAL MESSAGES.

[To the Senate, February 2.]

I herewith transmit, to the senate, for the use of the legislature, the enclosed communication from the adjutant-general.

[To the House of Representatives, February 7.]

I transmit, herewith, for the use of the legislature, the annual report of the commissioners of alien passengers.

[To the House of Representatives, February 13.]

I transmit, herewith, for the use of the legislature, the annual report of the treasurer of the Marshpee and Herring Pond Indians.

[To the House of Representatives, March 4.]

By chapter eighteen, Resolves of eighteen hundred and fifty-one, a reward was offered of ten thousand dollars, "to any person within this Commonwealth, who shall satisfy the governor and council that, by a test of at least five successive years, he has discovered a sure and practical remedy for the potato rot."

A very large number of applications have been made for this reward, both from within and without the State, and a vast variety of theories have been suggested, most of which have been asserted to be a "sure and practical remedy," for the disease.

It is obvious that, amid such conflicting claims and contradictory theories, the governor and council are not the most proper body to arrive at the correct result. Some of them are both practically and theoretically unacquainted with the science of agriculture. Under these circumstances, and in concurrence with the views of both the past and present council, I would suggest to the legislature the expediency of transferring the applications to the board of agriculture, for their examination, practical testing on the State Farm, and final adjudication.

[To the House of Representatives, March 6.]

I have this moment received a copy of the following Order, adopted by the house yesterday:—

Ordered, That his excellency the governor be respectfully requested to transmit, for the use of the legislature, the Annual Report of the Board of Education; and that the clerk be directed to convey this request to his excellency."

At the time of the adoption of the Order, I had not received any annual report from the board of education.

I have this morning received it, however, under cover of a note from the secretary, of this date, and I transmit it herewith, with the secretary's communication.

[To the House of Representatives, March 7.]

I return to the house of representatives, in which body it originated, a Resolve, entitled, a "Resolve in relation to furnishing Public Information to Daily Papers," with reasons for declining to give it my official approval.

The Resolve provides, "That the Secretary of the Commonwealth, and other State officers, be authorized and directed to furnish, at the same time, to all daily papers published in the city of Boston, all announcements of appointments, returns of votes, and public notices designed for the general information of the people, issuing from the secretary's office, and other departments at the State House, for the publication of which no money is paid by the State."

My first objection to the Resolve is, that it is unnecessary, and so far as my knowledge extends, unprecedented in the history of either of the States, or of the General Government. No one will assert, I presume, that the ends of public information have not been satisfactorily answered by the publication of appointments, returns of votes, and public notices, in the way that public use has sanctioned in our Commonwealth for three-quarters of a century.

The Resolve is a direct interference, in my judgment, with the legitimate functions of the executive branch of the government, and therein conflicts directly with that provision of the Constitution of Massachusetts, which declares, "that the legislative department shall never exercise the executive and judicial powers, or either of them, * * * to the end it may be a government of laws and not of men." It certainly must be deemed a novel, as well as indefensible encroachment on the province of the executive, to attempt to dictate in what manner purely executive acts shall be promulgated. To illustrate my meaning, let me instance, that in a few days, in accordance with long and hallowed custom, I shall issue a proclamation for the annual Fast. Is it not a direct attempt to usurp powers not properly belonging to the legislature, to endeavor to compel me to furnish a copy of that proclamation "at the same time," "to all daily papers published in the city of Boston?"

Another objection consists, in the necessary delay in furnishing the public with information, which would be caused by this Resolve, though it doubtless is intended to promote the facility of communicating it. At present, a copy of the

return of votes, or proclamation, is furnished to one paper, from which the five or six evening dailies can, if they see fit, reprint it within six or eight hours of its first publication, and the remainder within a day after it first appears. While it would sometimes require, (as for instance, the results of the official vote of last fall,) several days, to prepare a sufficient number of manuscript copies, to furnish one to each paper "at the same time."

Its unnecessary cost is another objection. Complaint has been made of the increasing expenses of the extra clerk hire in the office of the secretary of state, but if this Resolve becomes a law, the present force would probably prove entirely inadequate; the same is more or less true of the other heads of departments, and most probably the chief executive magistrate would be compelled to apply for an appropriation for a private secretary.

A much longer array of matter would be furnished for publication for "which no money is paid by the State" than, probably, the legislature, or the newspapers, contemplate. More than a hundred commissions are sometimes issued in a single day, upon *reappointments alone*, to the various offices of justices of the peace, notaries public, and others similar. The State, by this Resolve, is required to furnish some fifteen manuscript copies of all these daily, while it is very probable in a short time the papers would cease to print them. They are certainly under no obligation not to refuse, and much of the matter would be of so little interest, that it would disappoint but few readers if omitted.

It may also be justly questioned whether it is entirely consistent with the dignity of the Commonwealth to send voluminous matter to the daily papers, tacitly, at least, asking their services and their favor, and at the same time declaring, that for these services "no money is paid by the State." Would it not be more consistent with her dignity and propriety, to publish such executive acts as the executive power deems the public will be interested in knowing, in some one or more papers, and paying therefor a reasonable and satisfactory compensation? This last course is precisely the one now existing.

It may not be amiss to notice the absolute impossibility of complying with the precise tenor of the Resolve, which provides that the "secretary," "and other State officers" be "*directed* to furnish at the *same time*, to all daily papers." Had this been phrased to read "upon the same day," obedience to it would not have been morally impossible.

The thought naturally suggests itself why daily papers "in

Boston" alone, are included in the Resolve. I know of no exigency which would render necessary a grave legislative act of this character, regarding the Boston papers, which would not extend to all the other daily papers in the State, nearly equal in number to those included in the Resolve, and none of them more three hours distant from Boston.

For the reasons, then, that in my judgment this Resolve is unprecedented in the legislation of any State;—that it is an arbitrary, unjust and unconstitutional encroachment upon the freedom and privileges of the executive department, and an unauthorized attempt at dictation as to the manner in which its peculiar duties shall be done; that it would cause an unnecessary delay in furnishing our citizens with information from that department;—that it would create very considerably increased expense, which our treasury can ill afford to bear;—that it is inconsistent with the dignity of the Commonwealth to seek to compel, by a Resolve, the authorities of the State to continue to send, day after day, a very large amount of matter to any newspaper which has not asked for it, does not want it, and even may publicly refuse to print it; and that it is an absolute impossibility to comply with the specified requirements of the Resolve,—I feel justified in withholding from it my approval.

[To the Senate, April 3.]

I transmit, herewith, for the information of the legislature, a "Geological Report on the Sandstone of the Connecticut Valley, and especially on the Fossil Footmarks found in it," by Prof. Edward Hitchcock, of Amherst, accompanied with explanatory plates,—the duties of preparing which were intrusted to him by authority of chapter 28, Resolves of 1852.

[To the House of Representatives, April 28.]

I transmit, herewith, for the use of the legislature, the annual report of the Trustees of the Massachusetts School for Idiotic and Feeble-Minded Youth.

[To the Senate, May 6.]

I transmit, herewith, for the use of the legislature, the report of commissioners appointed under Resolve of 1856, chapter 58, concerning the artificial propagation of fish.

[To the House of Representatives, May 9.]

I transmit, herewith, for the use of the legislature, certain resolutions recently passed by the legislature of the State of Maine, in relation to the decision of the Supreme Court of the United States, in the case of Dred Scott.

[To the House of Representatives, May 9.]

On the 5th instant, I received the following Order of inquiry of the honorable house of representatives:—

“Ordered, That his excellency the governor, be requested to inform the legislature, if not inconsistent with the public interests, whether the commissioners appointed by, or in pursuance of the 450th chapter of the acts of the legislature of 1854, or either of them, be now in office, or be now performing any functions as commissioners in relation to rebuilding, or repairing, or superintending Charles River and Warren Bridges; and also, whether said commissioners, or either of them, be now receiving, or have received during the year last past, directly or indirectly, from the treasury of the Commonwealth, the agent of said bridges, or otherwise, any compensation or allowance for services performed during the past year, under provisions of said act, and, if so, whether the public interests requires their continuance in office.”

On referring to the chapter specified in the order, namely, chapter 450, Acts of 1854, I find it to be “An Act concerning the possession and use of Billiards, Bowls, and other like implements for other purposes than gaming,” and no commissioners are authorized or have been appointed under its provisions. Presuming from the context, that the house of representatives intended to refer to chapter 451, Acts of 1854, I proceeded to make the proper inquiries of the auditor and the superintendent of Charles River and Warren Bridges. Before giving copies of their replies, however, I would refer the house of representatives to printed House Document, No. 176, of the session of 1856, in which two of the commissioners, Messrs. Holmes and Marsh, under date of February 18, 1856, “*in behalf of the commission,*” make the following declarations: “The Warren Bridge is now substantially finished, and as all that remains to be done can as well be done by the state agent, without supervision, your commissioners *respectfully suggest that the commission be vacated. In surrendering the authority vested in your commissioners,* they are proud in the belief that the avenues, built and repaired under their direction, are as substantial, convenient and permanent as they could be made, and in every respect not surpassed by any similar structure in the State.” They also state that “they beg leave to present their *last quarterly report.*” Inasmuch as the work was then completed, the commissioners suggesting that “the commission be vacated,” declaring that they then presented their “*last quarterly report,*” and “surrendered the authority vested in them as commissioners”; and inasmuch as no service has been performed since, and none remains to be performed, I entertain the opinion that the commission virtually expired more than a year since.

The following replies to questions propounded the auditor and the superintendent of the bridges, answer all the other points embraced in the order of inquiry.

AUDITOR'S OFFICE, Boston, May 7, 1857.

To His Excellency HENRY J. GARDNER,

Governor of the Commonwealth.

In answer to your excellency's inquiry with regard to the amount paid from the State treasury, "during the year last past, to the commissioners appointed for the purpose of rebuilding Charles River and repairing Warren Bridges, under the Act of 1854, chapter 451," I would state, that the last payment made to said commissioners, was for services rendered in full for the quarter ending February 18, 1856.

I have the honor to be, very respectfully, your ob't serv't,

(Signed)

C. R. RANSOM, *Auditor.*

To His Excellency HENRY J. GARDNER.

In compliance with your request, this day received, I hasten to answer the inquiries contained in the Order which you forwarded me, as follows:—

Since the last report of the commissioners, submitted to your excellency, February 18, 1856, no duties have been performed by them, or either of them, upon the bridges, to my knowledge.

No compensation has been made by me to any member of the board of commissioners, directly, but the Hon. T. T. Sawyer, by virtue of being a member, as Mayor of Charlestown, has, and still claims and enjoys the privilege of passing over the bridges free of toll.

The public interest does not require the continuance of that commission, as the work for which it was created, was finished when their last report was made, February 18, 1856. That report contained a statement of the progress of the work, and a declaration of the inexpediency of continuing the commission, being signed by Messrs. John S. Holmes and J. F. Marsh, two of the commissioners, and a majority of the board.

I have thus as briefly and explicitly as possible, answered such of the questions contained in the Order, as come within my knowledge.

Respectfully, your ob't serv't,

(Signed)

JEREMIAH S. REMICK,

Agent Charles River and Warren Bridges.

Charlestown, May 8, 1857.

From the foregoing statements it appears that the two commissioners, receiving their appointment from the executive, vacated their office more than a year ago, and if the third member of the board, who was placed there by statute, continues to receive, "directly or indirectly, any compensation or allowance for services performed during the past year," and "if the public interest" does *not* require his "continuance in office," the matter is wholly beyond executive control, and can only be reached by the same power that placed him in office, that is the legislature itself.

[To the House of Representatives, May 23.]

I return, herewith, to that branch of the legislature in which it originated, a Bill entitled, "An Act in addition to an Act authorizing a loan of the State Credit, to enable the Troy and Greenfield Railroad Company to construct the Hoosac Tunnel," with my reasons for withholding from it my official sanction. In the brief time allowed me, and amid the claims of many other important questions pressing on my consideration at the close of the session, I am conscious of my inability to give so thorough a review of this Bill, as under more favorable circumstances I should be enabled to do.

Suffice it to say, I have not reached the conclusion that it becomes my imperative duty to veto the proposed measure, without careful attention to its details, nor without the most confident assurance that I am performing an act of plain and positive duty to the Commonwealth.

In the early efforts of the friends of this project for State aid, I sympathized to a great degree, and my name appears among the petitioners therefor. That aid has been granted upon certain conditions, and the financial interest and security of the Commonwealth absolutely demand that such aid should continue to be rendered only as auxiliary and secondary to what the corporation and its stockholders accomplish, and then only with special and rigid safeguards to protect the treasury from any eventual loss. Our State should not become a copartner in any such undertaking, directly or indirectly, under any circumstances, nor should it grant its indorsement except under restrictions tantamount to a positive guaranty that it should not, at some future day, be compelled to lose the sum already advanced, or to complete, with its own resources, a gigantic work, the cost of which, is hypothetical, the time required for the construction of which, is indefinite, the extent of whose benefit, is a matter of dispute, and the profits to be derived therefrom, if completed, are entirely problematical.

After unsuccessful efforts for a number of years, the Troy and Greenfield Railroad Company, in 1854, procured the passage of an Act granting to it, under certain conditions and at certain times, the loan of the credit of the Commonwealth to the amount of \$2,000,000. This Act was acceptable to, and accepted by, the corporation. Although over three years have elapsed, it is worthy of remark that the company have not been able yet to avail themselves of the first instalment of the State scrip.

This agreement between the State and the railroad com-

pany, involving great responsibility and the assumption of very large obligations on the part of the former, should not be varied so as to increase the liability of the Commonwealth, or diminish its security against ultimate loss, without at least great circumspection, and for cogent reasons.

This fact has been recognized by your predecessors who have refused to comply with the solicitations of the corporation. To the legislature next but one succeeding that which made the compact, which the railroad company on its part ratified, we find an application made for such change in the terms of agreement, as that the State should become a copartner with the stockholders, by subscribing for a portion of the stock, with the privilege of appointing a part of the board of directors. This scheme was rejected by your predecessors in the house of representatives, only about one-quarter of its members voting in favor of it, and there being a majority against it from every county in the State but one.

At the present session, we find the Petition of the corporation, (House Document, No. 18,) for a farther change in the mutual compact. This Petition states, "That a *slight* change in some of the terms contained in said second security, while it would not lessen but rather increase the security of the Commonwealth, would greatly aid the enterprise by allowing a prudent economy in the expenditure of its means." And again, "Your petitioners * * * ask that they may be released from the obligation of finishing the eastern division in one continuous section, and that *in lieu thereof* they may be required to *expend an amount equal to 35 per cent. on each installment of the State loan upon the line between the eastern terminus and Shelburne Falls, and after that part of the road is completed, then in like manner a like amount shall be expended before the receipt of each subsequent installment, upon the balance of the line, until the whole is completed.*"

This is what the company ask in their official Petition. And yet the committee report, and the Bill proposes, no such change. On the contrary, the alterations are of a radical and not a "*slight*" character; they dispense with the obligation that the railroad company shall build ready for use three miles of railway prior to the second installment, and five miles prior to the payment of each of the third, fourth and fifth installments, and they dispense also with the security of eighteen miles of finished railway which the original Loan Act required should be given to the State in part security for its advances from time to time. While this portion of the security is surrendered, a diminution in the amount

to be advanced is made, but in a *much less* proportion than the cost of the relinquished railroad. The committee state: "If it is asked why not maintain the same relation between the State advances and the security which pervades the present Act, and make it real and substantial? The reply is, that such a provision *would fail to afford the relief and co-operation which the company need; that it would not be acceptable to, or accepted by them,* and we should remain only where we are, facing the losses of the present Act."

In short, the existing or original Tunnel Bill provided, that while the State was liberally granting money from her treasury, those who sought her aid, who had confidence in the success of their project, and who were to be benefited by it, should show their sincerity, and at the same time properly aid in guarding her from loss, by also paying their share toward the progress of this work. The Bill now under consideration substantially proposes to relieve the corporators from paying their share of the joint expense, and throws the main cost of the experiment upon the Commonwealth.

It becomes necessary at this point of the investigation, to consider the available resources of the Troy and Greenfield Company, for the purpose of forming an opinion as to their capability of successfully continuing the enterprise they have commenced, and now ask the Commonwealth for further aid to enable them to complete. For I presume few men can be found in the legislature who would favor any proposition which tends to throw the responsibility of building this railroad and tunnel upon the Commonwealth, and probably not many who advocate entangling the State with a corporation whose resources are inadequate to the prodigious task before them. The whole theory of State aid is based upon assisting healthy and responsible railroads, who can give absolute and undoubted security for the assistance they receive.

The Troy and Greenfield Company was chartered in May, 1848, or nine years ago. In Senate Document, No. 2, for the present year, signed and sworn to by D. N. Carpenter, and sworn to, though not signed, by James Cheever, it appears that the whole amount of its capital stock is one and a half millions of dollars; the whole amount paid in, is but \$143,905.77, and the total amount of its funded (there being two mortgages on the road) and floating debt, is \$76,148.83.

House Document, No. 201, for the present year, also shows that the whole number of individual stockholders is 1,085, of whom 254, or one-quarter part, have never paid

an assessment. A comparison between this Report and the Report of last year shows, that during the past year there have been *eight* new subscribers, who in the aggregate have taken *ten* shares, and paid on them, \$442. It cannot be denied that these are very discouraging statistics on which to build a hope that the corporation is vigorous and healthy, and in a fair way speedily to drill a tunnel through solid rock, of about four miles and a half in length, and to construct and equip a railroad forty-two miles long.

Perhaps the fairest test of the feasibility, importance and probable pecuniary returns of a railway at the present day, is the readiness with which the New England mind apprehends them, and the quickness with which individual New England enterprise and capital are stretched forth to its succor and advancement. It is claimed that two sections of our State are to be especially benefited by the road under consideration: the city of Boston and the towns situated in the Hoosac and Deerfield Valleys. No one will deny but that both these localities contain sufficient intelligence to be awake to their own interests and wants, and abundant information as to the feasibility and profit of this undertaking. They are far better judges of its necessity and probable success than interested contractors or theorizing speculators.

Now what have these two sections done to aid this undertaking? What has Boston done,—with her immense wealth, and her many millions invested and seeking investments in railroad property throughout our Union,—where a million of dollars has been more than once subscribed to railway corporations in a single forenoon, by her shrewd, sagacious and far-seeing capitalists? The Report gives the names of the stockholders, though not their residences, yet by a careful comparison of the list with the Boston Directory, it appears that the whole amount of Boston *subscriptions* does not amount to one hundred shares, and of this a very inconsiderable portion, a few hundred dollars only, has *been paid in*.

Next, turning to the towns in the immediate vicinity of the tunnel, we find that by chapter 394, Acts of 1855, fifteen towns, presumed to be most interested, were authorized to subscribe to the stock of this road, in their corporate capacity, to the extent of three per cent. on their last valuation. In House Document, No. 125, for 1853, it is stated: "The population [of these two valleys] is *keenly alive* to the importance of the subject, and await with *intense interest* the action of the State."

The annexed table shows the names of these towns, the

sum they were authorized to subscribe, the sum they did subscribe, and the sum paid in on such subscription.

T O W N S .	Authorized Sub- scription.	Amount Sub- scribed.	Amount Paid.
Ashfield,	\$15,777 03	Nothing.	Nothing.
Buckland,	6,833 19	100 shares.	Nothing.
Conway,	20,384 76	Nothing.	Nothing.
Colrain,	19,286 89	Nothing.	Nothing.
Charlemont,	10,839 33	100 shares.	Nothing.
Deerfield,	30,279 18	Nothing.	Nothing.
Greenfield,	32,186 67	Nothing.	Nothing.
Hawley,	8,196 36	Nothing.	Nothing.
Heath,	7,809 20	Nothing.	Nothing.
Monroe,	1,816 14	Nothing.	Nothing.
Rowe,	6,462 96	Nothing.	Nothing.
Shelburne,	14,126 22	120 shares.	Nothing.
Adams,	51,734 52	200 shares.	\$1,400 00
Florida,	4,351 47	Nothing.	Nothing.
Williamstown,	29,199 27	Nothing.	Nothing.
Totals,	\$259,283 19	520 shares.	\$1,400 00

We here find fifteen towns in the immediate vicinity of the undertaking, more specially interested than any others, authorized by a special statute to subscribe for over a quarter of a million of dollars of stock in their corporate capacity, subscribing for only five hundred and twenty shares, and paying in the small pittance of fourteen hundred dollars.

Is it not a question worthy of serious doubt, if the people, and the towns, who are the most interested and best informed upon the subject, refuse to aid in the completion of this enterprise, whether we who are charged for the time being with authority to act for the whole State, are justified in committing her further to an undertaking of so perilous, or at least so questionable a character?

It is not necessary to refer to many important collateral and incidental questions. I will not dwell upon the change in the contract for the dimensions of the tunnel from that given in House Report for 1853 "of sufficient width for two tracks, and twenty feet high," to the width of a single track only and eighteen feet in height; nor upon the rejection of the amendment, that the subscription preliminary to the payment of the first State instalment should be an unconditional cash subscription; nor upon the want of suitable State Commissioners, charged with seeing that the money of the State is properly expended.

Neither do I propose to consider the probable length of time necessary to complete the tunnel,—nor its cost,—further than to point out bases of calculation furnished by the company's own figures. The Majority Report (House Document, No. 142,) says: "The expenditures up to this time for preliminary and incidental expenses, for the graduation and masonry of the seven miles of the road west of the Hoosac Mountain and *for some six to seven hundred feet of the tunnel*, are stated to have been about \$325,000."

Now we know by the sworn Reports of the company, just what all this but the "six to seven hundred feet of tunnel" cost, namely, \$176,000. It appears then that "six to seven hundred feet," say 650 feet of tunnel, cost actually \$149,000. The fact that this was at the entrances, and therefore easiest to reach and remove, being considered a fair offset to the want of experience among the laborers, (though House Document, No. 218, says, "the force now at work *is* well disciplined,") we find the cost of excavation to be \$230 per foot, or about *five million five hundred and twenty thousand dollars* for the whole tunnel, or some three million four hundred thousand dollars more, on the tunnel alone, than the whole of the proposed loan and all the capital stock which is paid in, to say nothing of the cost of forty-two miles of railroad and its equipment. Justice to the committee requires me to add that they do not vouch for the correctness of these figures, but declare "they are stated" to them, of course by the corporation, and on them they base their whole estimates.

We have also another basis of calculation furnished by official reports to the present legislature. In House Document, No. 201, p. 37, in a foot note, the president of the Troy and Greenfield Railroad Company states that Haupt & Co., the contractors on the tunnel, "have *probably* paid upon their stock at least \$75,000; and they have earned also in cash and bonds, *probably* \$150,000 in addition." Assuming these "probable" figures to be correct, it makes \$225,000

which they have expended upon the tunnels, and their profits, if any. In House Document, No. 218, we find that "the tunnel is *completed* 274 feet, and they have penetrated into the heading, so called, 247 feet." In the "little tunnel" they have completed 255 feet and made a heading of 185 feet. Now, let us call the 432 feet of "heading" completed tunnel, as well as the 529 feet really drilled out large enough for a single track, and we shall have 961 feet of tunnel, costing, as before stated, \$225,000, which gives the cost per foot as \$234.12, or nearly the exact result of the previous calculation. This is exclusive of the approaches to the tunnel, as well as of 185 feet of "heading" at the western end, which the Report says, "it has been found necessary, to keep it from falling in, to support with heavy timbers." If the sum of \$30,635, stated in House Document, No. 201, as having been paid in, is really a cash payment for stock, and not money spent in tunnelling, it will partially offset the liberal allowance in calling the 432 feet of heading, which House Document, No. 218, says, is "six and one-half feet by ten," as completed tunnel, measuring "eighteen feet by fourteen."

The time necessary for completing the tunnel is not absolutely material to the present question, yet past estimates and statements of the corporation and of committees favorable to it, are of value in the light of later experience. House Document, No. 125, for 1853, says: "Your committee are well satisfied the work may be commenced at each end of the Hoosac Tunnel, that three shafts can be sunk, and the work driven from eight faces. By this course the tunnel may be accomplished in four to five years." Shafts proving impracticable, however, it is now, tacitly at least, conceded that the tunnel can be advantageously worked only at the two ends. If "driving eight faces" can complete it in "four to five years," two faces would demand sixteen to twenty years. That committee "*placed great reliance*" on the great "boring machine," which proved a failure, and is now at the eastern end of the mountain, a crumbling and rusting monument of sanguine, but wild and delusive expectations.

But we are furnished with later and more reliable data, in the Report of the Special Committee sent by the House of Representatives to this locality (House Document, No. 218) to collect such information as they could respecting the progress of the work. It appears by this that the eastern heading was advanced as follows: In April, 72 feet; in March, 52 feet; in February, 44 feet; total, 168 feet in three months; and as the progress on the west side was "about

the same," this would give 1,344 feet progress per annum, on the whole tunnel. The whole 24,100 feet, at that rate, would require eighteen years for its completion, or precisely the time of the previous estimate.

It should be borne in mind, as experience proves it to be a general rule, that in all tunnels, unforeseen, unexpected and most strangely varied delays, obstructions and difficulties have arisen, which have increased the cost and prolonged the time of construction beyond the estimates. These have in some instances been two, three or four fold more than was anticipated. It is improbable the Hoosac Tunnel will be an exception; the wisest cannot now foresee what the precise impediments may be, though every one knows, in all human probability, more or less will be met with, and experience alone can prove whether they will increase twofold, or tenfold, the cost and time necessary for the construction of this work.

Let us now assume that the Troy and Greenfield Railroad, with its tunnel, is finished, and the road properly equipped; and further, that its cost is within the amount of the \$2,000,000 State loan, and the \$150,000 capital paid in. Then let us examine the character of the security the State has for its indorsement, that security being only a first mortgage upon the road and its equipment.

We have reliable data for this estimate, as we know the market value of the first mortgage bonds of other roads, built as links in various chains connecting the Atlantic with the western waters, in competition for through freight and travel with this very road. They are under somewhat similar circumstances with the Troy and Greenfield Railroad, in that they pass mainly through a sparsely settled country, and are chiefly single track roads. In one thing, however, they all have a great advantage over it, as neither of them have any natural obstacle, requiring enormous expense to overcome, like the Hoosac Mountain.

The following table shows the amount of capital stock of the four railroads specified,—the amount and kind of their mortgage bonds,—the market value of the first mortgage bonds of each,—their aggregate value in dollars,—and their percentage in value upon the amount of stock and bonds united, which is assumed as the cost of the work in each case:—

SPECIAL MESSAGES.

Name of Corporation.	Capital Stock.	Amount of Bonds.	1st mor. bonds Market value.	Value in dollars.	Per ct. of value on aggregate of st k & b'nds
Ogdensburg, .	\$1,468,738	1st mort., \$1,500,000 2d mort., 3,000,000	67 per cent.	\$1,005,000	17 per cent.
Vermont Cent'l,	5,000,000	1st mort., 2,000,000 2d mort., 1,500,000	20 per cent.	400,000	5 per cent.
Rutland & Burlington, .	1,676,500	1st mort., 1,800,000 2d mort., 1,200,000 3d mort., 1,200,000	29 per cent.	522,000	10½ per cent.
Vt. and Mass., .	2,232,540	1st mort., 956,500	66 per cent.	631,554	20 per cent.

We find the value of the first mortgage bonds of these four roads to range from five per cent. to twenty per cent. upon the aggregate of their stock and bonds united, which represent the cost of the road, exclusive of floating debt. The average market value of the first mortgage bonds of these four roads is about eleven per cent. upon the aggregate of their stock and bonds. If this be taken as the fair value to the first mortgage bondholders of the bonds of the Troy and Greenfield Railroad, we shall reach the following result:—

State loan,	\$2,000,000 00
Private subscription,	150,000 00
	\$2,150,000 00

Value of first mortgage bonds is eleven per cent. on that amount, which is \$236,500, showing a loss to the State of *one million seven hundred and sixty-three thousand dollars*, assuming the road was finished and equipped to-day for the amount of the State loan and the stock paid for.

If it is said this is an unfair estimate, we can take alone the Vermont and Massachusetts Railroad, which joins the Troy and Greenfield on the east, and forms a portion of the same line with it from the Hudson to the Atlantic. The statistics in regard to it are taken from the sworn returns to the State, and by our table we find its bonds are selling at twenty per cent. of its cost, as shown by the aggregate of its stock and bonds. At that rate the State would be a loser, were the Troy and Greenfield Road completed to-day, to the amount of \$1,570,000. In other words, for every dollar she advances, she takes a mortgage, worth in State Street to-day, just twenty cents.

It must also be considered as a most pregnant fact that the local travel, in the outset, was asserted to be sufficient to make a remunerating business. Now, it is stated in the Majority Report, that the ability of the seven miles of railroad, west of the Hoosac, to earn much, if any, above its running expenses, the tunnel being incomplete, is questionable. "The thirteen miles which would be built on the easterly side of the mountain," the Majority say, "would be valueless. No one familiar with the country and its present resources, and also with the expenses of railroad transportation, would venture an opinion that it would *ever* pay its running expenses." They further declare: "But unfortunately, in the judgment of your committee, there is no immediate and adequate use for the thirty or forty miles of railroad, proposed by the Act to be completed ere as yet one-third of the tunnel is wrought. The tunnel and the problem of its successful completion is the key of the whole enterprise. Then, and *then only*, can value be given to the line: a reliable value, *exceeding that of the iron which lies upon it.*" These statements present a sad contrast to the estimates of its advocates, in its earlier stages, when statistical tables were presented to show the immense local business, arising from its agricultural productions, manufactories, tanneries, grist-mills, saw-mills, marble, serpentine, soapstone, flagging stones, iron ore, &c., &c.

Your committee, however, think that these serious evils will be obviated by the completion of the tunnel. In their own words, "the tunnel, and *the problem of its successful completion*, is the key of the whole enterprise." Its successful completion is certainly an unsolved problem, but let us assume that it is completed. And *then* will this road be able successfully to compete for the traffic with the great West? Along the chain of waters connecting the Atlantic, at New York, with the great lakes, we find several competing railways north of it, reaching to the ocean, and several south of it, and with hardly an exception, their stock is ruinously depreciated, and, as we have seen, their bonds are at a very great discount. None of them can at all compete with the water carriage down the Hudson or St. Lawrence, and the aggregate of their freight is but a small per cent. of the quantity water-borne to the ocean. Is it not, then, futile to hope that this new competitor, with so meagre a capital, with a single track, and with a natural obstacle to overcome compared with which every thing in American engineering sinks into insignificance, will be able profitably to participate in this enterprise?

Look at one single competing line, which was not built when this road was chartered,—the Hudson River Railroad. I contrast the facilities of the two in the following table:—

Name of Road.	Length from Albany to N. York.	Capital paid in.	Cost.	Double Track.
Hudson River R. R.,	144 miles,	\$4,000,000	\$13,000,000	100 miles.
Troy and Greenfield Railroad,	Distance from Troy to Boston. 186 miles.	143,900	Contract. 3,880,000	51 miles.

House Document, No. 125, for 1853, also says: “The grades and curves on the Hudson River and Harlem Roads are more favorable than on the Troy and Greenfield Roads.” Now who can believe, on reflection, that the tunnel line can compete, for freight or passengers, with a road forty-two miles shorter,—whose grades and curves are more favorable,—which has two tracks for more than two-thirds its length,—and which ends at the great commercial emporium of our country?

It has been assumed that the road and tunnel can be completed by the aid of the present proposed loan of \$2,000,000, and such subscriptions as it seems probable from the past action of the corporation it will be able to collect. But this assumption, the best information within my reach convinces me, to a moral certainty, is groundless and erroneous. The present resources of the railroad corporation, are its capital stock actually paid in, \$143,905, and contingently \$2,000,000 State scrip; this cash subscription of less than \$150,000, being the result of its nine years efforts since it was chartered. We are told, too, in House Document, No. 142, that “the whole work is now under contract and prosecution for the sum of \$3,880,000.” Whence is the necessary balance, which, according to *present estimates* is *one million seven hundred and thirty thousand dollars*, to be obtained? With commendable frankness, the majority of the committee say in the same Report: “Future legislatures may see fit to *modify those features still further, and to carry out more fully that change of policy* which we now recommend only to a limited extent.” “For this purpose we reserve the right to the legislature of absolutely repealing this Act, *which power virtually includes that of modify-*

ing it." In other words, they seem to indicate that having adopted "a change of policy" of throwing greater responsibility with less security upon the Commonwealth, and less expenditure upon the railroad corporation, "future legislatures may see fit to carry out more fully this change of policy." I cannot aid in any change of policy whereby this corporation may receive the bonds of the State on any more favorable terms for itself, while it appears that under the present arrangement, supposing the road is finished for *half the price at which it is contracted for*, the security given the State for each dollar she advances is worth as cash but twenty cents.

Fully satisfied as I am, that if "this change of policy" is initiated by the passage of this Bill, the State of Massachusetts will, before many years, find herself reduced to the necessity of adopting the project as a State work, and prosecuting it to completion at immense expense, or of relinquishing as a total loss the amount she may have already advanced; fully satisfied, from the best information I can collect, that many millions of dollars beyond the present estimate will be needed to finish the work, and thoroughly convinced that no present legal voter of our Commonwealth will live to see the tunnel completed, I have no hesitation in placing upon record my best judgment, to be tested by the unerring criterion of the future, and at the same time am glad to be able to free myself from any responsibility in participating in what I deem this ill-advised action.

I am simply completing my duty, when I call to your remembrance the present financial condition of Massachusetts, which should, if any thing can, warn us from deliberately committing its treasury to any such enormous expenditures. With the increased and increasing annual expenses of the State, a large and enlarging debt, a burdensome annual tax, which has increased with alarming rapidity, and which, so far as we can see, with the strictest frugality, and most resolute determination not to indulge in new expenditures, cannot for some time be diminished, and after the pledge you and I have publicly given to strive to promote retrenchment and reform, Massachusetts herself has the right to demand from us that we abstain from this proposed legislation. Whatever the consequences may be, for one, I shall respect that demand. The people of our State should, and I doubt not will, hold those responsible who may prejudice her financial credit, destroy her preëminence in the money marts of the world, diminish the value of her securities, and plunge her into incalculable expenditures with open eyes and with the voice of warning in their ears.

Let this corporation cease its constant applications at the doors of the State treasury till it completes its subscriptions, procures the payment of its repudiated assessments, shows by its own acts the necessary confidence in its undertaking, and comes here not with the small basis of \$143,000 only, for so hereculean a task, but with a reasonable and paid up capital. Let its ardent advocates pay first their own subscriptions as an earnest of their faith in their assertions, and then, but not till then, should the corporation demand or receive further facilities from the State.

In the performance of this official obligation I have the happy assurance of knowing that I am acting in accordance with the clearest convictions of my own judgment and conscience, and, as I fully believe, in consonance with the ultimate sanction and approbation of a large majority of the people of the Commonwealth.

[To the House of Representatives, May 27.]

I return, herewith, unsigned, for the reconsideration of the legislature, a resolve entitled a "Resolve concerning Idiotic Children."

It proposes to increase the annual grant to the idiotic school, of \$5,000 per annum, to \$7,500 for the present year.

Since 1851, the State has granted between \$55,000 and \$60,000 to this institution, and in the present condition of her treasury I deem the proposed increase inexpedient.

Moreover, the report shows the average cost of each pupil per annum to be about \$170—while the Commonwealth pays to the Deaf and Dumb Institution at Hartford, and the Boston Lunatic Hospital, at South Boston, only \$100 per annum for each beneficiary.

The report also shows that private individuals have not sufficient confidence in the benefits of this institution to send thither at their own expense any considerable number of children.

During the year last past, the average number of pupils supported by Massachusetts was 34; aided by Massachusetts, 4; aided by Rhode Island, 2; supported wholly by friends, 4. Total average number, 44.

Under these circumstances, an earnest desire to prevent any unnecessary expenses constrains me to withhold my sanction from this Resolve.

[To the House of Representatives, May 29.]

I have carefully considered the Resolves herewith returned, entitled "Resolves for the Relief of Settlers in the Territory of Kansas." Divesting myself of prejudice and partiality, I have brought to their consideration an earnest regard for the reputation and honor of our Commonwealth, together with a devoted allegiance to her fundamental organic law.

To these sources alone, can both lawgivers and people turn with perfect confidence that they afford to the one a safe and unerring guide of conduct, and to the other an unfailing criterion by which the acts of their public servants can be judged.

The 18th article of the Bill of Rights declares, that "A frequent recurrence to the fundamental principles of the Constitution * * * is absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought consequently to have a particular attention to all those principles in the choice of their officers and representatives; and they have the right to require of their lawgivers and magistrates an *exact* and *constant observance* of them in the formation and execution of the laws necessary for the good administration of the Commonwealth."

No injunction could be more peremptory than this; no language more forcible; and the public servant who forgets or neglects it, is unworthy of the confidence of his constituents, violates his oath of office, and is regardless of the honor and integrity of Massachusetts.

The Resolves contemplate the appropriation of \$100,000 "for the relief of such peaceable, *bona fide* settlers in the Territory of Kansas, as shall have been stripped of their means of subsistence, and brought into danger of suffering, or of being compelled to abandon the Territory by a recurrence of invasions and outrages, such as have heretofore been visited upon the people of that Territory;" and, also, to render aid "in protecting and defending in the courts of the Territory and of the United States, the constitutional and legal rights of such peaceable and deserving settlers therein, of such citizens of Massachusetts being in the Territory as may be exposed to the loss of life, liberty, or property, by the unjust decrees of the pretended legislature of that Territory, or by the unwarranted exercise or abuse of judicial or ministerial authority." They further provide that the governor, with the advice and consent of the council, shall be charged with the authority and the duty conferred and implied by these Resolves.

The question of their constitutionality doubtless presented

itself to the committee who reported them, and we naturally look for the reasons which they adduce to support that point. Three members of the committee, only, sign the Report, and I find it impossible to bring my mind to the conclusions which they have reached. Their reasons are as follows: "Is such an appropriation constitutional? Your committee have given careful attention to this point, and in their view, such an appropriation is in no respect repugnant to the spirit or provisions of the Constitution. Such an appropriation would be for the good and welfare of the Commonwealth, and hence can be constitutionally granted. The whole incorporating power rests upon the supposed fact that corporations subserve indirectly the well being of the State. The present grant contemplates the prospective, as well as the present, interests of the State. Then, again, the names of eminent lawyers and judges, who have petitioned for this appropriation, deserve to be considered as weighty authority in favor of its constitutionality."

The committee assign other grounds for its expediency, but give no additional demonstration of its constitutionality. Bearing in mind their conceded ability, and their acknowledged "careful attention to this point," this may be fairly accepted as the entire argument that can be adduced to substantiate the constitutionality of this measure. These members of the committee, in their Report, further declare, that, "in their view such an appropriation is in no way repugnant to the spirit or provisions of the Constitution." With the utmost respect for their "view," it must be remembered that the State of Massachusetts, through the solemn forms of her legislative and executive branches of government, has placed on record, within one year, an opinion precisely opposite. Massachusetts declares, in chap. 80, Resolves of 1856, approved June 3d last, which the record shows passed the house without opposition, and the senate with but *two*, dissenting votes, (and *they* approved this paragraph,) "*that we do not claim that, as a State legislature, we are clothed with power to initiate measures for their [the settlers in Kansas] relief.*" When I signed that Resolve, I believed this declaration not only to be true of itself, but I accepted it as the solemn expression of the opinion of Massachusetts, asserted as it was by her unanimous voice through her chosen representatives. If that position was the true one then, it is the true one to-day; and it especially behooves our Commonwealth not to weaken and destroy the moral influence of her opinion by such fickle and contradictory legislative declarations as would result from the adoption of these Resolves.

The Report also alleges that such an appropriation would be for the "good and welfare of the Commonwealth," and therefore can be constitutionally granted. The committee, in the only quotation from the Constitution, as favoring their position, wrest these six words from their context; but the entire clause, on examination, will be found repugnant to such a conclusion. Their extract is from article 4 of chapter 1, section 1: "And further, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes and ordinances, directions and instructions, either with penalties or without, so as the same be not repugnant or contrary to this Constitution, as they shall judge to be for the good and welfare of this Commonwealth [these six words the committee quote], and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof;" the same section provides that the legislature may levy taxes and assessments, duties and excises, "to be issued and disposed of by warrant, under the hand of the governor of this Commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the said Commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same."

The Constitution, it is true, authorizes the general court to enact such statutes as they may deem to be "for the good and welfare of the Commonwealth," but subject, however, to the positive stipulation, immediately following, that they shall be "for the government and ordering thereof and of the subjects of the same, and for the necessary support and defence of the government." It provides, undoubtedly, that the legislature shall levy "reasonable taxes" and impose duties upon "any commodities whatsoever," but they shall be expended only "in the necessary defence and support of the government of the said Commonwealth, and the protection and preservation of the subjects thereof." But these Resolves go clearly beyond this constitutional restriction, in providing this sum of \$100,000 to be taken from the treasury of Massachusetts, and to be expended "for the relief of such peaceable, *bona fide*, settlers in Kansas as shall have been stripped of their means of subsistence," irrespective of their origin, or former or present citizenship. It is unnecessary to inquire if "*bona fide* settlers in Kansas," can at the same time be "subjects of Massachusetts," as it is not

pretended that the appropriation is intended to be used for the relief of those alone who may, at any time heretofore, have been citizens of our State. The second Resolve makes this acknowledged purpose plainly apparent, by providing that this sum may be expended for protecting "the legal and constitutional rights of such peaceable and deserving *settlers* therein, or of such *citizens of Massachusetts*, being in the Territory, as may be exposed to the loss of life, liberty and property." The *Constitution* restricts the powers of the general court to making laws and expending money for the benefit of the subjects of Massachusetts; the *Resolves* propose to do both for the "*bona fide* settlers in Kansas," even though never within the limits of our Commonwealth. The *Constitution* limits and restricts the legislature to expending the moneys of the State "in the necessary defence and support of the government of the said Commonwealth, and the protection and preservation of the *subjects* thereof;" the *Resolves* go far beyond this restriction, and contemplate the expenditure of her money for the protection and preservation of the subjects of an independent and distant government.

It is unnecessary to point out the repeated instances, running through our Constitution, in which the purposes of government and the powers of its various branches, are limited and restricted, with more or less distinctness, all tending to show the unconstitutionality of the power here attempted to be exercised.

I will only refer to one additional portion of our fundamental charter, which, in my judgment, shows, very clearly, the unconstitutionality of the proposed Resolves. Chapter 2, section 1, article 11, is in these words: "No moneys shall be issued out of the treasury of the Commonwealth, and disposed of, * * * but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the Commonwealth, and for the protection and preservation of the *inhabitants* thereof, agreeably to the acts and resolves of the general court."

John Adams never wrote a clearer sentence, and it seems as if our mother tongue is hardly capable of expressing an idea more unequivocally. It is the paragraph in the Constitution which specially directs the manner of drawing money from the treasury, and it declares the only way in which, and the only purpose for which, it shall be done. Lest the word "inhabitant" should be liable to a misconstruction, the Constitution itself defines it, as follows: "and to re-

move all doubts concerning the meaning of the word '*inhabitant*' in this Constitution, every person shall be considered as an inhabitant, for the purpose of electing or being elected into any office, or place within this State, in that *town, district or plantation*, where *he dwelleth or hath his home.*"

The Constitution here positively declares, "*no moneys shall be issued out of the treasury and disposed of*" but "for the protection and preservation of the *inhabitants of the State*,—that is, of any person who "*dwelleth,*" or "*hath his home*" in it. These Resolves provide that \$100,000 shall "be issued out of the treasury and disposed of," for the benefit of those who may never have breathed our air, or seen our borders; who are not, and may never have been, inhabitants of Massachusetts.

So palpable is this positive prohibition, that various theories have been suggested, whereby it has been attempted to deduce the power sought to be exercised. For instance, it has been alleged that, though authority to pass Resolves appropriating money for such purposes, may not be expressly granted in the Constitution, yet that every power not positively withholden by that instrument, vests in the legislature. It has been argued that all legislative authority belongs to the general court which the Constitution does not expressly forbid it to exercise, and thence the argument is deduced of the competency of the legislature to pass these Resolves, unless it is positively shown that the Constitution forbids it in express terms. The Constitution of the United States, it is asserted, authorizes the national legislature to perform only such acts as are distinctly enumerated, while all reserved powers pertain to the several States; but it is alleged the powers of the legislature of the State stand on a much broader ground, and embrace every thing not positively withheld. In my judgment, the power to pass these Resolves is not only not expressly granted, as this argument concedes, but is plainly and positively forbidden. Yet even if this be not so, the theory referred to is untenable, and has been so declared nearly half a century since, by our supreme court. Judge Jackson, in pronouncing the opinion of that august tribunal in 1814, (Massachusetts Reports, volume 11, page 404,) says: "There is an implied authority in the parliament to exercise the power here mentioned; because, according to the theory of the *English* constitution, 'that absolute despotic power which must in all governments reside somewhere,' is intrusted to the parliament. The principles of *our* government are widely different in this particular. Here the sovereign and absolute power resides

in the people; and the legislature can only exercise what is delegated to them according to the constitution."

This is so conclusive, no appeal can be taken from it, and it has been so frequently repeated and so well understood, as to have become of the binding effect of conceded and undisputed law. In the late Constitutional Convention, the Bill of Rights was referred to a committee, of which the Hon. Charles Sumner was chairman, and of which the Honorable Joel Parker, B. F. Hallett, George S. Hillard, Charles Allen, John C. Gray, Asahel Huntington, Julius Rockwell, Luther V. Bell, Henry Williams, Anson Burlingame, and Laban Marcy, and R. H. Dana, jr., esq., were members, who were so impressed with the propriety of incorporating this truth into our fundamental law, that they reported the following amendment to the preamble of our Constitution:

"4. *Resolved*, That the Bill of Rights be amended by inserting between the 29th and 30th articles, the following additional article:—

"This enumeration of rights shall not impair others retained by the people, and no powers shall ever be assumed by the legislature that are not granted in this Constitution."

The failure of the attempt to incorporate this proviso into the Constitution, after being unanimously reported by so influential a committee, can hardly be satisfactorily explained, except by the reason that it was deemed inexpedient to hamper the Bill of Rights with universally acknowledged truths, approaching even to truisms.

The precedent that Vermont and Michigan have made similar appropriations, is urged as a reason why it is constitutional for Massachusetts to do the same. The fact, however, that thirteen other free States had made none, would be equally as conclusive that it is unconstitutional for us so to do, inasmuch as each State must apply any proposed enactment to the sole test of the provisions of its own Constitution, irrespective of what may be done by any other independent sovereignty, under the authority of another and diverse organic law. What the Constitution of Michigan may permit, that of Massachusetts may forbid, and the converse is equally true. In fact, in the former, unnaturalized aliens can vote, while free colored persons are debarred from that privilege, while in the latter this franchise is conferred on free negroes and withheld from unnaturalized foreigners, thus showing how untenable is the argument of analogy.

Having thus shown that the Resolves in my judgment contravene the provisions of the Constitution of Massachu-

sets, I rest my refusal to affix my signature to them upon the highest and broadest grounds known to a statesman.

I cannot do it, without violating that oath of fealty to the Constitution of Massachusetts, which I took upon me, and subscribed, in your presence, and what, in its consequences, is far worse than the guilt of individual perjury, without doing violence to that instrument, which is the written charter of all our liberties, and the legacy of our fathers' wisdom.

Weighed with the foregoing considerations, our empty treasury,—the paramount duty of retrenchment and economy,—the provocation to other States to retaliate by antagonistic grants,—and the danger of reawakening by foreign interference the slumbering passions and hostilities of that unfortunate Territory,—all sink into comparative insignificance.

Believing, then, these Resolves unconstitutional were they expedient, and inexpedient were they constitutional, I decline to give them my official sanction.

[To the Senate, May 30.]

I desire to transmit to the legislature the reasons that have influenced my action upon a Bill entitled, "An Act concerning the Danvers Railroad Company and the Boston and Maine Railroad."

The brief space of time allotted me for its consideration before the proposed adjournment of the general court, together with the great number of important questions necessarily claiming my attention, have forbidden such careful examination of its provisions as their novelty and importance demand.

The impairing of the obligations of certain mutual contracts by legislative enactments, as well as the interposition of the legislative authority in the internal economy and management of the road, which, it is alleged, are involved in this Bill, are certainly novel and questionable features in Massachusetts legislation respecting railroad corporations. Whether these or any of them are unconstitutional acts, as is claimed by the opponents of the Bill, requires deliberate consideration, and perhaps can be settled only by a judicial tribunal.

As an appeal to such tribunals is open to any parties who feel themselves aggrieved, and as it is not my province to adjudicate the mere expediency of questions of this nature which meet the approval of the two branches of the general court, I have felt it my duty, with this explanation, to sign the Bill.

[To the Senate, May 30.]

Before the final adjournment of the legislature, I desire to inform the two branches that I respectfully decline to comply with their request contained in the address for the removal of Edward Greeley Loring from the office of judge of probate for the county of Suffolk.

Pressing duties, necessary to be performed during the closing hours of the session, render it impracticable for me to give my reasons in full for such refusal at the present time, but I will, at the earliest opportunity, prepare them, cause them to be printed in the volume of Acts and Resolves for the present year, and to be communicated to the public prints, for the information of the members of the legislature, and the people of the Commonwealth.

[The following, bearing date July 1, was addressed to the President of the Senate, through the public prints of the 7th, and a copy enclosed to the clerk of the Senate, on the 31st of said month.]

In compliance with the intention expressed in a communication transmitted to the Senate on the last day of the session, I proceed to state a few of the more prominent reasons for refusing to accede to the request contained in the Address of the two branches of the legislature, for the removal, with the advice and consent of the executive council, of Edward G. Loring from the office of Judge of Probate for the county of Suffolk.

The reasons assigned in the Address, for his removal, are as follows:—

1st. Because he consented to sit as United States Slave Commissioner, in defiance of the moral sentiment of Massachusetts, as expressed in the Legislative Resolves of 1850.

2d. Because, now, in defiance of the provisions contained in section 13 of chapter 489 of the Acts of 1855, Edward G. Loring continues to hold the office of judge of probate, under a Massachusetts commission, and, at the same time, to hold, in defiance of law, a commission under the United States, which qualifies him to issue warrants and grant certificates, under the Acts of congress, named in the 9th section of chapter 489 of the Acts of 1855.

I respectfully refer the two branches to my Message to the legislature of 1855, to be found in the volume of the Acts and Resolves for 1856, commencing at page 325, for the grounds which caused me to deem the first reason given to be wholly insufficient to authorize on my part such action as is prayed for.

I have therein, I think, satisfactorily shown that a true interpretation of the Constitution, from a comparison of the different clauses of that instrument, from the statement of

the address that accompanied it, from contemporaneous evidence, and from the uniform practice of the State government, with one exception, and that exception having recorded against it the protest of John Quincy Adams, who was then one of its senators, does not authorize the removal of judges by address, unless through the providence of God they may become incapacitated to perform the duties appertaining to their offices; but that for any alleged crime, or infringement of law, they must be impeached according to the clear provisions of the Constitution; thereby also preserving inviolate the privilege conferred by the 12th article of the Bill of Rights, that "no subject shall be held to answer for any crime or offence, until the same is fully and plainly substantiated and formally described to him;" * * "and every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence, by himself, or his counsel, at his election."

It was in this view of the case that the suggestion was made by me, which has been widely misrepresented and misunderstood, that if the legislature were determined to punish Judge Loring by removing him from office, for what no one can justly doubt to have been an honest and conscientious act on his part, they should at least do it in such a manner as "that no precedent shall be established pregnant with evil to those who may come after him, and so that punishment shall follow only a plain violation of law. Such a course is open to the legislature to adopt. In both branches an attempt was made to render the holding of the office of judge of probate incompatible with that of the commissionership under which Judge Loring's action was deemed obnoxious and objectionable."

This language is now quoted by a large part of these petitioners, as if there was in it the slightest commitment on my part, to his removal by me, upon an address of the two branches of the legislature, for disobeying the provisions of such an enactment as is referred to. I had supposed all the intelligent citizens of Massachusetts were too well informed to need to be told that the removal of a judge for an *infringement of the statute law of the Commonwealth*, could only be effected constitutionally and legally by an impeachment by the house of representatives, and a solemn trial by the senate.

A few days after my previous refusal to remove Judge Loring, the "Personal Liberty Bill" was passed, one of the provisions of which furnishes the second and last reason

given for now requesting his removal. It must be remembered that this Bill did not receive my signature, but became a law by the requisite majority in both branches of the legislature, notwithstanding the executive veto. The passage of this Act and its continuance upon our statute book, containing, as it does, provisions clearly repugnant to the Constitutions both of the United States and of Massachusetts, has brought discredit upon our Commonwealth, and is deeply deplored by all law-abiding and right-thinking men.

Still it exists—and to its provisions, such as they are, we must turn, to consider the duty devolved upon the chief magistrate of the State by an address to him of the legislature, with reference to these provisions.

Having distinctly asserted, as my deliberate judgment, and, as I believe, clearly demonstrated, that the Constitution of Massachusetts authorizes the removal of her judicial officers, upon address, only for disqualification, mental or physical, caused by the interposition of Providence, I can safely rest my refusal to accede to the removal of Judge Loring upon that ground. If such removal is to be effected let it be done in the only constitutional manner known to our organic law—by impeachment.

Judge Loring is here charged with an official misdemeanor, because he retains his office of Judge of Probate “in defiance of the provisions” of the Personal Liberty Bill, while at the same time holding a commission, and acting, as an United States Commissioner. The language of John Quincy Adams is peculiarly applicable to this very case, in his protest, still existing on the journal of the senate, under date of March 4, 1803. He *protests* against an address to the governor for a judicial removal—“First, because the grounds alleged in the said address for the removal are *for official misdemeanors*; and the *subscriber conceives it to be the intention of the Constitution that no judicial officer should be removed from office by the mode of an address of the two Houses, on the ground of offences for the trial of which the Constitution has expressly provided the mode of impeachment.*”

But assuming for a moment that the provisions of the Constitution were very different from what they are, and *did* contemplate the removal of judicial officers by the executive, upon an address of the two Houses, for such reasons as are here given, and upon this unwarranted assumption let us consider the character and nature of the reason under consideration assigned in the address for the removal of Judge Loring.

Eighteen years ago, Judge Loring was appointed a commissioner of the United States circuit court, for the district of Massachusetts. Ten years ago, while holding said commission, he was appointed judge of probate for the county of Suffolk, and he has ever since held both offices. Two years ago, the law referred to in the address was passed, substantially declaring that any person who should continue to hold both of said, or two similar offices, for ten days thereafter, should "be deemed to have violated good behavior, to have given reason for loss of public confidence, and have furnished sufficient ground either for impeachment or for removal by address."

We here find an attempt made by a mere statutory enactment to override the provisions of the Constitution, an attempt clearly and unquestionably futile and inoperative. The Constitution fixes the tenure of judicial office; this law attempts to enact a different tenure. The Constitution contemplates the impeachment and trial of judges for crimes and misdemeanors, and their removal by address for mental or physical disability; this law attempts to declare that both these methods may be adopted, indiscriminately, for a constructive crime of its own creation. In the words of the honorable attorney-general, in his opinion accompanying my Message returning this Bill without my approval, "It attempts to construe and declare the true intent and meaning of the provision of the Constitution, which subjects judicial officers to removal by the executive, upon address by both branches of the legislature, * * * which is beyond the constitutional competency of the legislature, under the provisions of the Constitution of the Commonwealth."

Again, the provision of the Personal Liberty Bill partakes of the character of an *ex post facto* law, inasmuch as it practically ordained if Judge Loring, in consequence of his participating in the rendition of Anthony Burns, continued to hold for ten days thereafter the office of United States Commissioner, which he had then held sixteen years, as well as the office of Judge of Probate, which he had held eight years, he should be deemed, by so doing, to furnish sufficient ground for impeachment. Whether such a statute could be constitutionally enacted in reference to any future appointments to judicial office, we are not called upon to inquire, but whether such provisions are constitutional so far as they refer to incumbents in office, at the time of their passage, is best and most conclusively answered by the annexed extract from the Constitution itself: "*Laws made to punish for actions done before the existence of such laws, and which*

have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government."

But there are graver objections to the constitutionality of the course of action demanded of me, which commend themselves to the careful consideration of every reflecting citizen. The power of removal from judicial office by address, intending to cover those cases where, from mental and physical incapacity, a removal is imperatively required by the public good, is an arbitrary power, rarely permitted under our theory of government, and, when from necessity granted, is hedged round with every available safeguard, as it should be, against oppressive or inconsiderate use. If there is any one sentiment more earnestly inculcated in our Constitution than others of its great truths, it is "that it is essential to the preservation of the rights of *every* individual, his *life, liberty, property and character*, that there be an impartial interpretation of the laws and administration of justice;" "that it is the *right* of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit," to which end it provides that judges shall hold their offices during good behavior, and specifies that certain of them shall have "permanent and honorable salaries." But, as a judge cannot be impeached for lunacy, nor tried for the loss of reason, this arbitrary and despotic power of removal by address, antagonistical to our whole theory of government, and to be used only in cases of absolute emergency, was granted, but guarded, as before stated, by every possible precaution against misuse. It requires the concurrent action of *four* departments of government—the house, the senate, the executive and the council—whose separate and independent acquiescence is necessary to accomplish a removal. It is discretionary with each, and it is made so by the Constitution itself.

But here we find a statute law, passed by the concurrent action of only *two* of these four departments of the government, which assumes to declare that certain acts "shall be deemed" "sufficient ground" "for removal by address." An attempt is thus made to nullify the whole theory of the Constitution, regarding judicial removals, by authorizing two departments of the government to usurp powers conferred by the Constitution only upon the concurrent action of four, and also by imposing as a *duty* upon the executive, that which, by the Constitution, is a power to be exercised at his discretion.

Again, the Act upon which the second reason for Judge Loring's removal is based, conflicts directly with the constitutional tenure of judicial office. The Constitution of Massachusetts fixes the life tenure for judges, subject only to the condition of good behavior, but a reason founded in a provision of an Act of 1855, reaches a source no higher than the legislature itself. Can the legislature override the Constitution? If the legislature of 1857 can address Judge Loring out of office in consequence of an Act of the legislature of 1855, can it not in consequence of an Act it may itself enact? If so, the whole judiciary of Massachusetts, contrary to the belief of three-quarters of a century, instead of being a fixed and permanent body of officers, is subject to the legislation of a mere majority, and can be removed whenever party prejudice shall demand, or party policy may dictate.

The candid and intelligent portion of the community will hardly withhold a deserved rebuke to the minority of the committee, for making the following assertion: "The governor, also, has admitted its [the Personal Liberty Bill] constitutionality, by acting under it in the appointment of commissioners." Their next paragraph is as follows: "The courts, too, have acted under its provisions, and thus have given their sanction to the constitutionality of *such of the provisions, at least, as they have acted under.*" Had the minority of the committee inserted the same qualification regarding the "governor" as they have respecting the "courts," they would have told the truth. The section under which commissioners are appointed has no reference whatever to the objectionable and unconstitutional provisions of the Act, and the cause which demands for its support so unauthorized a statement as this, must give rise to doubts as to its own soundness or to the discretion of its defenders.

Instead of "admitting its constitutionality," I vetoed it because it was *un*constitutional. I recommended its repeal in my annual message to the legislature of 1856, because it was *un*constitutional, and I now base my declining to remove Judge Loring on any reason drawn from its provisions, because it is *un*constitutional.

I regret that this question has assumed a party aspect, instead of being considered as a matter immediately affecting the permanency of our judiciary, and the rights and interests of the people of our Commonwealth. Yet the actions of party leaders, the unmistakable speeches of partisan orators, and the tone of a portion of the political press, conclusively

indicate that the question is now to be taken from the halls of legislation and from executive action to be adjudicated by the votes of our citizens at the ensuing State election.

With unwavering faith that the conservative and intelligent verdict of my fellow-citizens will sustain my views of public duty, will preserve that system of judicial independence upon which rests the safety and happiness of all our people, and those momentous constitutional truths which are alike the rich legacy of our fathers' wisdom, and the underlying foundation of our system of self-government, I reiterate my conclusion, that my sense of duty to the State, and my oath of fealty to its Constitution, preclude my assenting to the Address for Judge Loring's removal.

ACTS AND RESOLVES

PASSED AT THE

SECOND SESSION

OF THE

General Court

OF

1857.

The General Court of 1857 assembled in the State House, according to adjournment, on Tuesday, the fourteenth day of July, and was prorogued on Friday, the thirty-first day of the same month.

ACTS AND RESOLVES.

AN ACT relating to Elections.

Be it enacted by the Senate and House of Representatives, Chap. 307 in General Court assembled, and by the authority of the same, as follows :

In all popular elections for state or national officers, hereafter to be held, the inhabitants of the several towns and cities of this Commonwealth, shall vote in their respective towns and cities, any thing in their acts of incorporation, or in any other acts, to the contrary notwithstanding. [*Approved July 29, 1857.*]

Inhabitants shall vote in their respective cities and towns.

AN ACT to apportion Representatives to the several Counties.

Chap. 308

Be it enacted, &c., as follows :

SECTION 1. The two hundred and forty members of the house of representatives are hereby apportioned to the several counties of the Commonwealth, as follows :—

House two hundred and forty members.—apportionment of.

- The county of Suffolk, twenty-eight representatives ;
- The county of Essex, thirty-two representatives ;
- The county of Middlesex, thirty-nine representatives ;
- The county of Worcester, thirty-four representatives ;
- The county of Hampshire, eight representatives ;
- The county of Hampden, twelve representatives ;
- The county of Franklin, eight representatives ;
- The county of Berkshire, eleven representatives ;
- The county of Norfolk, excluding therefrom the town of Cohasset, twenty representatives ;
- The county of Bristol, twenty representatives ;
- The county of Plymouth, including in addition thereto the town of Cohasset, sixteen representatives ;
- The county of Barnstable, nine representatives ;
- Dukes county, one representative ;
- The county of Nantucket, two representatives.

SECTION 2. This act shall take effect from and after its passage. [*Approved July 29, 1857.*]

Chap. 309 AN ACT to divide the Commonwealth into Forty Districts for the choice of Senators.

Be it enacted, &c., as follows :

To be divided into forty districts.

SECTION 1. For the purpose of choosing senators, the Commonwealth is hereby divided into forty districts, as hereinafter provided.

Suffolk, five districts.

SECTION 2. The county of Suffolk is divided into five districts, as follows :—

First.

The city of Chelsea, the towns of North Chelsea and Winthrop, and the ward numbered two in the city of Boston, shall constitute a district, to be known as the First Suffolk District.

Second.

The wards numbered one, three and five in the city of Boston, shall constitute a district, to be known as the Second Suffolk District.

Third.

The wards numbered four, six and seven, in the city of Boston, shall constitute a district, to be known as the Third Suffolk District.

Fourth.

The wards numbered eight, nine and ten in the city of Boston, shall constitute a district, to be known as the Fourth Suffolk District.

Fifth.

The wards numbered eleven and twelve in the city of Boston, shall constitute a district, to be known as the Fifth Suffolk District.

No new division of wards in Boston previous to next apportionment.

No new division of wards in the city of Boston shall be made previous to the next apportionment of senators and representatives, any thing contained in the third section of the four hundred and forty-eighth chapter of the acts of the year one thousand eight hundred and fifty-four, to the contrary notwithstanding.

Essex, five districts.

SECTION 3. The county of Essex is divided into five districts, as follows :—

First.

The city of Lynn, and the towns of Lynnfield, Marblehead, Nahant, Saugus, and Swampscott, shall constitute a district, to be known as the First Essex District.

Second.

The city of Salem, and the towns of Danvers, Hamilton, Middleton, South Danvers, Topsfield, and Wenham, shall constitute a district, to be known as the Second Essex District.

Third.

The city of Lawrence, and the towns of Andover, Boxford, Haverhill, Methuen, and North Andover, shall constitute a district, to be known as the Third Essex District.

Fourth.

The city of Newburyport, and the towns of Amesbury, Bradford, Georgetown, Groveland, Newbury, Salisbury, and West Newbury, shall constitute a district, to be known as the Fourth Essex District.

The towns of Beverly, Essex, Gloucester, Ipswich, Manchester, Rockport, and Rowley, shall constitute a district, to be known as the Fifth Essex District. Fifth.

SECTION 4. The county of Middlesex is divided into six districts, as follows:— Middlesex, six districts.

The city of Charlestown, and the towns of Somerville, Melrose, and Malden, shall constitute a district, to be known as the First Middlesex District. First.

The city of Cambridge, and the towns of Waltham, West Cambridge, Watertown, and Brighton, shall constitute a district, to be known as the Second Middlesex District. Second.

The towns of Ashland, Framingham, Holliston, Hopkinton, Natick, Newton, Sherborn, Sudbury, Wayland, and Weston, shall constitute a district, to be known as the Third Middlesex District. Third.

The towns of Acton, Ashby, Boxborough, Carlisle, Chelmsford, Concord, Dunstable, Groton, Lincoln, Littleton, Marlborough, Pepperell, Shirley, Stow, Townsend, Tyngsborough, and Westford, shall constitute a district, to be known as the Fourth Middlesex District. Fourth.

The towns of Bedford, Billerica, Burlington, Lexington, Medford, North Reading, Reading, South Reading, Stoneham, Wilmington, Winchester, and Woburn, shall constitute a district, to be known as the Fifth Middlesex District. Fifth.

The city of Lowell, and the towns of Dracut and Tewksbury, shall constitute a district, to be known as the Sixth Middlesex District. Sixth.

SECTION 5. The county of Worcester is divided into six districts, as follows:— Worcester, six districts.

The city of Worcester and the towns of Holden, Paxton, and Rutland, shall constitute a district, to be known as the Central Worcester District. Central.

The towns of Blackstone, Douglas, Mendon, Milford, Northbridge, Sutton, and Uxbridge, shall constitute a district, to be known as the South-East Worcester District. South-East.

The towns of Auburn, Brookfield, Charlton, Dudley, Leicester, Oxford, Southbridge, Spencer, Sturbridge, Warren, Webster, and West Brookfield, shall constitute a district, to be known as the South-West Worcester District. South-West.

The towns of Athol, Barre, Dana, Hardwick, Hubbardston, New Braintree, North Brookfield, Oakham, Petersham, Phillipston, Royalston, Templeton, and Winchendon, shall constitute a district, to be known as the West Worcester District. West.

The towns of Ashburnham, Fitchburg, Gardner, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling, and North-East.

Westminster, shall constitute a district, to be known as the North-East Worcester District.

East. The towns of Berlin, Bolton, Boylston, Clinton, Grafton, Millbury, Northborough, Shrewsbury, Southborough, Upton, Westborough, and West Boylston, shall constitute a district, to be known as the East Worcester District.

Hampden, two districts. SECTION 6. The county of Hampden is divided into two districts, as follows:—

West. All the towns in said county lying on the west side of the Connecticut River, together with the towns of Chicopee and Ludlow on the east side of said river, shall constitute a district, to be known as the West Hampden District.

East. The city of Springfield and the towns of Brimfield, Holland, Longmeadow, Monson, Palmer, Wales, and Wilbraham, shall constitute a district, to be known as the East Hampden District.

Hampshire and Franklin, three districts. SECTION 7. Three districts are made from the two counties of Hampshire and Franklin, as follows:—

Hampshire. The towns of Chesterfield, Cummington, Easthampton, Goshen, Hadley, Hatfield, Huntington, Middlefield, Northampton, Plainfield, South Hadley, Southampton, Westhampton, Williamsburg, and Worthington, shall constitute a district, to be known as the Hampshire District.

Franklin. The towns of Ashfield, Bernardston, Buckland, Charlemont, Colrain, Conway, Deerfield, Gill, Greenfield, Hawley, Heath, Leyden, Monroe, Northfield, Rowe, Shelburne, and Whately, shall constitute a district, to be known as the Franklin District.

Hampshire and Franklin. All of the towns in the counties of Hampshire and Franklin, which have not already been enumerated in this section, shall constitute a district, to be known as the Hampshire and Franklin District.

Berkshire, two districts. SECTION 8. The county of Berkshire is divided into two districts, as follows:—

North. The towns of Adams, Cheshire, Clarksburg, Dalton, Florida, Hancock, Hinsdale, New Ashford, Lanesborough, Peru, Pittsfield, Savoy, Williamstown, and Windsor, shall constitute a district, to be known as the North Berkshire District.

South. The remaining towns in said county, not already enumerated in this section, shall constitute a district, to be known as the South Berkshire District.

Norfolk, three districts. SECTION 9. The county of Norfolk, excluding therefrom the town of Cohasset, is divided into three districts, as follows:—

North. The city of Roxbury and the towns of Brookline, Dor-

chester, and West Roxbury, shall constitute a district, to be known as the North Norfolk District.

The towns of Braintree, Milton, Quincy, Randolph, ^{East.} Stoughton, and Weymouth, shall constitute a district, to be known as the East Norfolk District.

The remaining towns in said county, not enumerated in ^{West.} this section, shall constitute a district, to be known as the West Norfolk District.

SECTION 10. The county of Bristol, excluding therefrom ^{Bristol, three districts.} the town of Fairhaven, is divided into three districts, as follows:—

The towns of Attleborough, Easton, Raynham, Mansfield, ^{North.} Norton, and Taunton, shall constitute a district, to be known as the North Bristol District.

The city of New Bedford and the town of Dartmouth, ^{South.} shall constitute a district, to be known as the South Bristol District.

The remaining towns in said county, excepting Fairhaven, ^{West.} as aforesaid, shall constitute a district, to be known as the West Bristol District.

SECTION 11. The county of Plymouth, together with the ^{Plymouth, three districts.} towns of Cohasset and Fairhaven, is divided into three districts, as follows:—

The towns of Abington, Cohasset, Hanover, Hingham, ^{North.} Hull, North Bridgewater, Scituate, and South Scituate, shall constitute a district, to be known as the North Plymouth District.

The towns of Bridgewater, Carver, Fairhaven, Lakeville, ^{South.} Mattapoisett, Marion, Middleborough, Rochester, and Wareham, shall constitute a district, to be known as the South Plymouth District.

The remaining towns in said county, not enumerated in ^{Middle.} this section, shall constitute a district, to be known as the Middle Plymouth District.

SECTION 12. The towns of Brewster, Chatham, Dennis, ^{Barnstable, in part, Cape District.} Eastham, Harwich, Orleans, Provincetown, Truro, Wellfleet, and Yarmouth, in the county of Barnstable, shall constitute a district, to be known as the Cape District.

SECTION 13. The towns of Barnstable, Falmouth, and ^{Barnstable, in part, with Dukes and Nantucket, Island District.} Sandwich, in the county of Barnstable, together with the counties of Dukes county and Nantucket, shall constitute a district, to be known as the Island District.

SECTION 14. This act shall take effect from and after its passage. [*Approved July 30, 1857.*]

Chap. 310 AN ACT to arrange the Senatorial Districts into Eight Districts, for the choice of the Council.

Be it enacted, &c., as follows :

Councillor Dis-
tricts.
Number One. SECTION 1. The five senatorial districts of the county of Suffolk, taken together, shall constitute Council District Number One.

Number Two. SECTION 2. The five senatorial districts of the county of Essex, taken together, shall constitute Council District Number Two.

Number Three. SECTION 3. The first, second, fourth, fifth and sixth senatorial districts of the county of Middlesex, taken together, shall constitute Council District Number Three.

Number Four. SECTION 4. The Franklin senatorial district, the Hampshire and Franklin district, and the Central, North-East and North-West districts of the county of Worcester, taken together, shall constitute Council District Number Four.

Number Five. SECTION 5. The two senatorial districts of the county of Hampden, the two senatorial districts of the county of Berkshire, and the Hampshire district, taken together, shall constitute Council District Number Five.

Number Six. SECTION 6. The North Norfolk senatorial district, the Third Middlesex district, and the East, South-East, and South-West districts of the county of Worcester, taken together, shall constitute Council District Number Six.

Number Seven. SECTION 7. The West and East Norfolk senatorial districts and the three senatorial districts of the county of Bristol, taken together, shall constitute Council District Number Seven.

Number Eight. SECTION 8. The three senatorial districts of the county of Plymouth, the Cape district, and the Island district, taken together, shall constitute Council District Number Eight.

Laws not repug-
nant to remain
in full force. SECTION 9. All provisions of law hitherto in force, relating to the choice of councillors, not repugnant to the arrangement of districts provided in this act, shall continue in full force and effect.

SECTION 10. This act shall take effect from and after its passage. [*Approved July 30, 1857.*]

Chap. 311 AN ACT concerning Elections of Representatives in the General Court.

Be it enacted, &c., as follows :

Meetings for elec-
tion of represen-
tatives in districts
same as hereto-
fore by cities and
towns. SECTION 1. In every town or city which shall hereafter constitute a representative district, according to the twenty-first article of amendment of the constitution, the meetings for the choice of representatives in the general court shall be called and conducted, the election ascertained, recorded

and certified, and in case of failure to elect, a new election ordered, in the mode heretofore provided by the constitution and laws of this Commonwealth for the choice of representatives in such town or city.

SECTION 2. In all cities which shall hereafter embrace more than one district for such choice, the warrant for calling the meeting for the election of representatives shall direct that the voters in the several wards in each district, respectively, shall be notified to bring in their votes on one ballot for the representatives to which such district may be entitled, and shall specify the number thereof. Said meetings shall be called, conducted, and the votes therein received, counted, declared, recorded and certified to the mayor and aldermen, or board of aldermen, in all other respects in accordance with the provisions of law hitherto existing; and the mayor and aldermen, or board of aldermen, shall proceed to ascertain the result of the election, cause a record to be made of the same, and cause the same to be certified to the persons elected, in the same manner as is now provided in regard to the representatives of the several cities. Whenever it shall appear to such board that any district has failed to elect the number of representatives to which it is entitled at the election held on the Tuesday next after the first Monday of November, by reason that a sufficient number of persons have not received a plurality of the votes cast, they shall issue their warrant, directing the qualified voters of such district to be notified to meet in their respective wards on the fourth Monday of said November, to bring in their votes for the number of representatives necessary to fill such vacancy, which number shall be specified in said warrant, and like proceedings shall be had thereupon as in case of the original election of such representatives.

SECTION 3. Whenever any city shall be embraced in the same district with any town or towns, the meetings for the election of representatives shall be called, conducted, and the result of the ballotings therein recorded and certified to the mayor and aldermen, or board of aldermen, as provided in the second section of this act; and the clerk of such city, and the clerk of each town in such district, shall meet at noon on the day following said election, at such place within said district as shall be appointed as hereinafter provided, and shall examine and compare the result of the ballotings, and ascertain what persons, if any, have been duly elected representatives of such district; and the said clerks shall make out a certificate of such election, and

Cities which embrace more than one district, &c.

Meetings conducted, and record, &c., made of, same as under heretofore existing laws.

In case of failure to elect on first Monday, election to be held on the fourth Monday of November.

When a city and town are embraced in same district, meetings to be called, &c., as provided in 2d section.

Clerks to meet following day to compare result of ballotings, &c.

Return of votes to be made out within four days after meeting.

Certificate of, to be returned to secretary on or before first Wednesday in January.

Form of certificate.

When two or more towns form one district, voters in each to meet first Tuesday of November.

Meetings for representatives, in towns to be called in legally established manner.

transmit the same by a constable or other authorized officer, to each person so elected, within ten days after the day of their said meeting. They shall also make out, under their hands, a true and complete return of all the votes cast for representatives in said district, the names of all persons for whom said votes were given, and the number of votes for each person so given, and a record of such return shall be made in the book of records in such towns and city, within four days after the day of their meeting; and a certificate of such election shall be given under the hands of the said clerks, and shall be delivered into the office of the secretary of the Commonwealth, on or before the first Wednesday in January, in every year.

The certificate of such election shall be in substance as follows, to wit:—

Commonwealth of Massachusetts, county of .
Pursuant to a law of this Commonwealth, the qualified voters of Representative District Number , in their several meetings on the day of November instant, for the choice of representatives in the general court, did elect , being inhabitants of said district, to represent them in the general court to be holden on the first Wednesday of January next.

Dated at the day of in the year one thousand eight hundred and .

The certificate, aforesaid, shall have a return thereon, signed by the officer authorized to give such notice, and stating that notice of the choice was given to the persons therein mentioned to be elected, and that said persons were summoned to attend the general court accordingly.

SECTION 4. Whenever two or more towns shall form a representative district, according to the provisions of the twenty-first article of amendment of the constitution, the qualified voters in each of said towns shall meet in their respective towns on the Tuesday next after the first Monday of November, annually, for the election of as many representatives as such district so formed shall be entitled to choose.

SECTION 5. All town meetings for the choice of representatives, in the general court, shall be called by the selectmen of each town, in the manner legally established in such towns for calling town meetings; the warrant for calling the meeting shall direct that the voters shall be notified to bring in their votes on one ballot for the representatives to which such district may be entitled, and shall specify the number thereof.

The selectmen shall preside in such meetings, and shall have all the powers which are, by law, vested in moderators of town meetings; they shall openly receive, sort and count all the votes there legally given by the qualified voters present, and shall forthwith, publicly declare the whole number of votes received, the names of all persons for whom said votes were given, and the number of votes for each person so given. The result of said ballotings shall be recorded in the town book of records, according to the declaration thereof made, and the selectmen and town clerk shall, forthwith, make out under their hands, and seal up, in open town meeting, a true transcript of the record of such result, and deliver the same to the clerk. The clerks of the several towns of any representative district, formed as provided by the fourth section of this act, shall meet together, at noon, on the day following said election, at a place within the district, to be appointed as hereinafter provided, and shall examine and compare the said transcripts, and ascertain what persons, if any, have been duly elected representatives of such district by the legal voters thereof.

Selectmen to preside, &c.

Result to be recorded, transcript of record made, &c.

Clerks to meet on following day and examine transcripts.

The said clerks, or a majority of them, shall make out a certificate of such election, under their hands, and transmit the same, by a constable of the town, to each person so elected, within ten days after the day of their said meeting; and a certificate and return of such election shall be given under the hands of said clerks, and shall be delivered into the office of the secretary of the Commonwealth on or before the first Wednesday in January, in every year; and such certificate and return shall be the same in substance as provided in section three of this act. The several towns and cities may provide such compensation for the performance by the clerks or selectmen, of the duties herein required, as they shall see fit.

Clerks to make out certificate within ten days.

Certificate to be returned to the secretary on or before the first Wednesday in January.

Compensation, &c.

SECTION 6. Whenever any town or towns shall be embraced in the same district with any ward or wards of any city, the meetings for the elections of representatives in such towns shall be called, conducted, and the result of the ballotings therein recorded and certified, as provided in the fifth section hereof; and the clerks of such wards shall meet with the clerks of such towns, for the purpose of ascertaining what persons, if any, have been elected; and the same proceedings shall be had in relation to making certificates, returns, and records of such election, as are provided in the fifth section of this act.

Cities and towns, when embraced in one district, meetings to be conducted as in fifth section.

City and town clerks to meet and ascertain result of election.

Mode of proceeding in case of failure of election.

SECTION 7. If upon examination and comparison of the results of ballotings, it shall appear to said boards of aldermen of cities, or clerks of towns and wards of cities in districts, that such districts have failed to elect the number of representatives to which such district is entitled, by reason that a sufficient number of persons have not received a plurality of the votes cast, said mayor and aldermen, or board of aldermen, shall proceed as provided in the second section hereof, and clerks in wards of cities in the same district with towns, shall certify the fact of a non-election to the mayor and aldermen of such city, who shall issue their warrant to said wards for another meeting, as provided in the second section of this act. The clerks of towns shall certify such fact to the selectmen of their several towns, who shall forthwith issue their warrants for another meeting for the election of representatives, (to fill such vacancy,) to be held on the fourth Monday of the same November; and the same proceedings shall be had in the conducting of said second election, and recording and ascertaining the result thereof, notifying the persons elected, and making certificate and returns of such election, as herein before provided.

Officers authorized by law to apportion the representation, shall select place for clerks to ascertain result of election.

SECTION 8. It shall be the duty of the county commissioners, mayor and aldermen, or board of aldermen, or such special commissioners as are by law authorized to apportion the representation assigned to the several counties, at their meeting for such purpose, to designate and appoint a place in every representative district, containing more than one town or city, or wards of more than one city, at which the clerks of said towns and cities, or wards of cities, shall assemble as herein before provided, for the purpose of ascertaining the result of elections; and due notice of such appointment shall be given by said commissioners or mayor and aldermen to every town, city, and wards of cities in such representative districts. But the place of such meetings may thereafter be changed by the same authority, after a hearing, and on a petition of any two of said clerks: *provided*, that no such change shall be made oftener than once in two years.

Notice to be given. &c.

Place of meetings may be changed.

Proviso.

Penalty for neglect of duty.

SECTION 9. If any selectman, or other town or city officer, shall wilfully neglect or refuse to perform any of the duties required of them by this act, they shall severally, for each offence, forfeit a sum not exceeding two hundred dollars.

Secretary to furnish blanks.

SECTION 10. It shall be the duty of the secretary of the Commonwealth to furnish to the county commissioners of the several counties, and to the cities and towns of the Com-

monwealth, all the necessary blanks for the returns required by this act.

SECTION 11. In case of any vacancy in the office of town or city clerk or ward clerk, or any disability in any such clerk to perform any of the duties herein respectively required of them, the selectmen of any town, the mayor and aldermen or board of aldermen of any city, or warden of any ward as aforesaid, may respectively appoint a clerk, *pro tempore*, who shall be duly sworn, and shall perform such duties.

Vacancy in office of clerk—how filled, &c.

SECTION 12. This act shall take effect from and after its passage. [Approved July 31, 1857.]

RESOLVE for the Pay of the Clerks, Door-keepers, and Messengers of the two Houses of the Legislature. *Chap. 109*

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to the clerks, assistant-clerks, door-keepers and messengers of the two branches, the same rates of compensation per diem, during the present session, as were allowed to those officers, respectively, at the last session; and the governor is authorized to draw his warrant accordingly. [Approved July 30, 1857.]

Pay of clerks, &c., to be, *pro rata*, the same as at last session.

RESOLVE for the Pay of the Chaplain of the Legislature.

Chap. 110

Resolved, That there be allowed and paid, out of the treasury of the Commonwealth, to Rev. John P. Cleveland, of Lowell, the sum of fifty dollars, for his services as chaplain of the two branches, during the present session; and the governor is authorized to draw his warrant accordingly. [Approved July 30, 1857.]

\$50 to Rev. John P. Cleveland.

CHANGE OF NAMES.

SECRETARY'S OFFICE.

By the 256th chapter of the Acts of 1851, entitled "An Act to provide for the Change of Names of Persons," it is provided that "the judges of probate for the several counties shall annually, in the month of December, make a return to the office of the Secretary of the Commonwealth, of all changes of names made under and by virtue of this act, and such returns shall be published in a tabular form, with the statutes of each year." The following returns have been received at this department in accordance with said act.

SUFFOLK.

Phebe Baker, takes the name of Ida Estella Germain.

Eva Barnard Chase, takes the name of Mary Eloise Edmands.

Sarah Ann Drown, takes the name of Sarah Ann Battell.

Delia Doherty, takes the name of Delia Willson.

Annie Ladd, takes the name of Gertrude Straw.

Albert F. Murphy, takes the name of Albert Freeman.

Mary E. Murphy, takes the name of Mary Elizabeth Freeman.

Nathaniel L. Murphy, takes the name of Nathaniel Murphy Lowe.

James H. Murphy, takes the name of James Murphy Hurd.

Elizabeth McAdams, takes the name of Elizabeth Adolphus Piercy.

Oriana Lucetta Marston, takes the name of Ann Eliza Robbins.

John James O'Halloran, takes the name of John James Vallyelly.

Parmelia Parker, takes the name of Mary Ann Young.

Anne Maria Porter, takes the name of Annie Bourne.

Abby Robinson, takes the name of Sarah Gertrude Babb.

Wallah Redding, takes the name of Wallah Redding.*

Laurette Tibbetts, takes the name of Laura Ann Winchester.

John Williams, takes the name of John Russell Williams.

Decreed by Edward G. Loring, Judge of Probate for the County of Suffolk.

ESSEX.

January 15, 1856. John Garrety, of Ipswich, takes the name of John Henry Burnham.

March 4. William Ensign Sargent, of Lynn, takes the name of William Parrott Sargent.

March 4. William Clark, of Lynn, takes the name of William R. Clark.

March 25. Francis Brown, (a minor,) adopted by John Carr, of Newburyport, takes the name of George Francis Carr.

March 25. Almira Ellen Corson, (a minor,) adopted by Peter Cropley, of Newburyport, takes the name of Emma Judson Cropley.

May 6. Abigail F. Jenkins, of North Andover, wife of Benjamin Jenkins, takes the name of Abby F. Jenkins.

May 6. Jens Rasmussen, of Gloucester, takes the name of James R. Hamilton.

June 10. Eliza C. Turnbull, (a minor,) adopted by Joseph H. Dockum, of Newburyport, takes the name of Mary Frances Dockum.

July 1. John Johnson, of Andover, takes the name of John George Johnson.

September 2. Henrietta C. Janes, of Lynn, takes the name of Henrietta C. Choate.

September 2. Samuel J. B. Currier, of Salisbury, takes the name of Samuel J. Brown.

* The real name of the child was unknown to the petitioners. She is the only survivor of the massacre in the Wallah Wallah Valley, in California. Her white friends found her, and saved her, giving her the name of Wallah Redding, which name the probate court decreed that she should be known by hereafter. Her parents were murdered with the other Indians, at the time above alluded to, and the child was found lying across the mother's breast after the massacre.

October 7. Charles Warren Johnson, of Nahant, takes the name of Charles Benjamin Johnson.

Decreed by N. S. Howe, Judge of Probate for the County of Essex.

MIDDLESEX.

January 8, 1856. Francis Harvey Batchelder, of Charlestown, (a minor,) takes the name of George Francis Harvey Batchelder.

January 8. Mary Augusta Walker Page, of Cambridge, (a minor,) takes the name of Mary Page Snow.

February 19. Laura Elizabeth Bradford, of Lowell, (a minor,) takes the name of Lizzie Ann Fay.

April 11. Abba Francis Colby, of Lowell, (a minor,) takes the name of Anna Josephine Blanchard.

April 24. Josephine Elizabeth Wigginton, of Stoneham, (a minor,) takes the name of Josephine Elizabeth Brown.

August 19. Isabella Anthony, of Malden, (a minor,) takes the name of Isabella Anthony Gordon.

August 19. Mary Eliza Anthony, of Malden, (a minor,) takes the name of Mary Eliza Wait.

August 19. Fanny Clark Goddard, of Medford, (a minor,) takes the name of Fanny Clark Bigelow.

September 16. Evangeline Hobbs, of Lowell, (a minor,) takes the name of Alice Allen Hosmer.

October 28. Elizabeth M. McEuen, of Framingham, (single woman,) takes the name of Elizabeth Baker.

December 16. Clara Jane Hunt, of Cambridge, (a minor,) takes the name of Clara Jane Orcutt.

Decreed by William A. Richardson, Judge of Probate for the County of Middlesex.

WORCESTER.

January 1, 1856. Stephen Cutler, and Sarah Cutler, his wife, adopt Hannah Adaline Winslow, and said Hannah takes the name of Hannah Adaline Cutler.

February 5. Charles J. Ballard, and Eliza J. Ballard, his wife, adopt Eunice Augusta Drury, and said Eunice takes the name of Carrie Augusta Ballard. Hiram C. Wight, and A. Maria Wight, his wife, of Worcester, adopt William Wendell Drury, and said William takes the name

of William Drury Wight. Jason Chapin, and Lucy G. Chapin, his wife, of Worcester, adopt Helen Isabella Howland, and said Helen takes the name of Helen Isabella Chapin. Franklin Whipple, and Eliza W. Whipple, his wife, of Worcester, adopt Mary Jane Waite, and said Mary Jane takes the name of Jennie Waite Whipple.

March 4. Andrew H. Ham, of Worcester, takes the name of Andrew H. Hammond.

April 1. Eleazer Wheelock, and Mary W. Wheelock, his wife, of Worcester, adopt Sarah Amarett Cleveland, and said Sarah takes the name of Sarah Maria Wheelock. Willard H. Brown and Elizabeth H. Brown, his wife, of Worcester, adopt Frances Ada Hanenstock, and said Frances takes the name of Ada Isabella Brown. William Edwin Rogers, of West Brookfield, takes the name of William Edwin Gilbert.

May 22. Asaph Foskett, and Mary A. Foskett, his wife, of Gardner, adopt George Orville Ford, and said George takes the name of George Ford Foskett.

June 3. Sandford Fisk, and Lucy A. Fisk, his wife, of Webster, adopt a female child left at their house, and said child takes the name of Abbie Frances Fisk.

September 2. Henry Chapin, and Sarah R. Chapin, his wife, of Worcester, adopt Eliza Leighton Randall, and said Eliza takes the name of Annie Thayer Chapin.

Decreed by Thomas Kinnicutt, Judge of Probate for the County of Worcester.

HAMPSHIRE.

May 6, 1856. George Sawyer Tracy, of Belchertown, takes the name of George Sawyer. George Andrew Sawyer Tracy, of Belchertown, takes the name of George Andrew Sawyer.

June 3. John Eddy Dunbar Lamberton, of Ware, takes the name of John Lamberton.

October 7. Richard E. Cole, and Eunice A. Cole, his wife, of Huntington, adopt Charles Braman Herrick, (a minor,) and said Charles takes the name of Charles Frank Cole.

December 2. George E. Lamb, and S. M. Lamb, his wife, of Williamsburg, adopt Martha Riden, (a minor,) and said Martha takes the name of Mary Eva Lamb.

Decreed by Ithamar Conkey, Judge of Probate for the County of Hampshire.

HAMPDEN.

January 1, 1856. Sarah Jane Moore takes the name of Sarah Jane Orswell.

Decreed by Oliver B. Morris, Judge of Probate for the County of Hampden.

FRANKLIN.

February 12, 1856. Asahel Hawks, and Almira Hawks, his wife, of Heath, adopt Sarah Ida Brown, minor child of Nahum P. Brown, of Florida, in the county of Berkshire, and said Sarah takes the name of Sarah Ida Hawks. Asahel Hawks, and Almira Hawks, his wife, of Heath, adopt Asahel Hawks Coats, minor child of Sally A. Coats, of Heath, and said Asahel takes the name of Asahel Coats Hawks.

March 11. John Goodwin, and Eliza B. Goodwin, his wife, of Charlemont, adopt Lucy Maria Harris, minor child of Sophronia M. Harris, of Heath, and said Lucy takes the name of Harriet Ella Goodwin.

October 14. Francis Park, and Jane E. Park, his wife, of Greenfield, adopt "an infant male child of only a few days old, whose parentage is unknown," and said child takes the name of Charles Summer Park.

Amos Deth, Hannah Deth, his wife, and Hiram Deth, their son, take the names of Amos Dexter, Hannah Dexter, and Hiram Dexter.

October 21. Daniel Crosby, of Hawley, adopts Michael Barden and Mary Ann Barden, minor children of Thomas Barden, of Ireland, and they take the names of Willis Thomas Crosby and Mary Ann Crosby.

Decreed by Franklin Ripley, Judge of Probate for the County of Franklin.

BERKSHIRE.

December 2, 1856. William Wells Doolittle and Mary Elizabeth Doolittle, take the names of William Wells Smith and Mary Elizabeth Smith. Cynthia Jane Crouch, takes the name of Cynthia Jane Wheeler.

Decreed by Daniel N. Dewey, Judge of Probate for the County of Berkshire.

NORFOLK.

January 12, 1856. Royal Lincoln Carsley, of Roxbury, takes the name of Royal Lincoln.

January 19. Maria Marinda Bicknell, of Weymouth, (a minor,) takes the name of Marinda Dorr Bicknell.

March 15. Sarah E. T. Burrage, of Roxbury, (a minor,) takes the name of Sarah Burrage Palmer.

April 19. David Webber Gridley, of Roxbury, (a minor,) takes the name of Daniel John Webber.

June 21. Bridget Kenny, of Quincy, (a minor,) takes the name of Delia Shine. Mary A. Morris, of Stoughton, takes the name of Mary Ann Page.

September 27. Henry Dewey Cain, of Cohasset, (a minor,) takes the name of Henry Dewey Wilson.

October 11. Mary Augusta Wyman, of Dorchester, (a minor,) takes the name of Augusta Clapp.

Decreed by W. S. Leland, Judge of Probate for the County of Norfolk.

BRISTOL.

August 5, 1856. Humphrey Smith, of New Bedford, takes the name of Humphrey Howland Henry Crapo Smith.

Decreed by Oliver Prescott, Judge of Probate for the County of Bristol.

PLYMOUTH.

March 4, 1856. Peter Sprague, of Hingham, takes the name of Peter N. Sprague.

December 1. Zenas M. Lane and Emeline M. Lane, of Abington, adopt Mary Ann Fuller, of Charlestown, (a minor,) and the said Mary Ann takes the name of Annie Isabel Lane.

Decreed by Aaron Hobart, Judge of Probate for the County of Plymouth.

BARNSTABLE.

July 15, 1856. Seth A. Gifford and Jane B. Gifford, his wife, of Falmouth, adopt Frances Oceana Gifford, (a minor,) and the said Frances takes the name of Alice Frances Gifford. Augustus Forest Smith, of Truro, takes the name of John Forest Smith.

August 12. John Peroney, of Barnstable, takes the name of John Peroney Eldridge. Ebenezer Hallet, junior, of Yarmouth, takes the name of Ebenezer Alger Hallet.

Decreed by George Marston, Judge of Probate for the County of Barnstable.

DUKE'S.

1856. William Ross Merrills, of Edgartown, to take the name of William Ross Pease. William Buckley Norton, of Tisbury, takes the name of William Robert Norton.

Decreed by Theodore G. Mayhew, Judge of Probate for the County of Dukes.

NANTUCKET.

1856. Sarah Briggs, takes the name of Sarah H. Briggs. Franklin B. Chase takes the name of Benjamin Franklin Chase.

Decreed by Samuel Mitchell, Judge of Probate for the County of Nantucket.



LIST OF THE
CIVIL GOVERNMENT
OF THE
Commonwealth of Massachusetts,
AND OFFICERS IMMEDIATELY CONNECTED THEREWITH,
FOR THE POLITICAL YEAR, 1857.

CIVIL GOVERNMENT—1857.

HIS EXCELLENCY

HENRY J. GARDNER,
GOVERNOR.

HIS HONOR

HENRY W. BENCHLEY,
LIEUTENANT-GOVERNOR.

COUNCIL.

CHARLES H. STEDMAN,	GEORGE HOWLAND, JR.,
CHARLES R. TRAIN,	WILLIAM J. EAMES,
LABAN M. WHEATON,	DANIEL P. PIKE,
ANSEL PHELPS,	EDWIN F. JENKS.

FRANCIS DEWITT,

Secretary of the Commonwealth.

CHAS. W. LOVETT, *1st Clerk.* ALBERT L. FERNALD, *2d Clerk.*

MOSES TENNEY, JR.,

Treasurer and Receiver-General of the Commonwealth.

DANIEL H. ROGERS, *1st Clerk.* JOHN H. SMITH, *2d Clerk.*

CHANDLER R. RANSOM,

Auditor of Accounts.

WILLIAM EVELETH, *Clerk.*

FRANCIS M. ADAMS,

Messenger to the Governor and Council.

GENERAL COURT.

SENATE.

CHARLES W. UPHAM,
PRESIDENT.

SUFFOLK DISTRICT.

Robert I. Burbank,	George W. Messinger,
Benjamin C. Clark,	Jacob Mitchell,
John Cowdin,	Henry B. Rogers.

ESSEX DISTRICT.

John Batchelder,	Eben F. Stone,
Caleb D. Hunking,	Charles W. Upham.
Eben S. Poor,	

MIDDLESEX DISTRICT.

O. W. Albee,	Gideon Haynes,
Arthur P. Bonney,	Joseph White,
Constantine C. Esty,	James M. Usher.

WORCESTER DISTRICT.

J. F. Hitchcock,	Velorous Taft,
George F. Hoar,	Ohio Whitney, Jr.
William Mixer,	

HAMPSHIRE DISTRICT.

Wm. S. Brakenridge,	Oliver Warner.
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HOUSE OF REPRESENTATIVES.

CHARLES A. PHELPS,
SPEAKER.

COUNTY OF SUFFOLK.

Boston,

Thaddeus Allen,
John L. Andrews,
Horace E. Armington,
Ebenezer Atkins,
Samuel A. Bradbury,
Thomas M. Brewer,
Isaac T. Campbell,
Paul Curtis,
Albert Day,
Charles Field,
Jonas Fitch,
Phineas E. Gay,
Charles Hale,
George Heaton,
Albion K. P. Joy,
Daniel Kimball,
William Marble,
Ebenezer Nelson,
Samuel Newmarch,
Thomas Nickerson,
Charles Nowell,
John A. Nowell,

HOUSE OF REPRESENTATIVES.

Boston, (Con.)

Charles A. Phelps, *Speaker*,
 Enoch Plummer,
 Edward F. Porter,
 Ambrose A. Ranney,
 Charles O. Rogers,
 Enoch C. Rolfe,
 Thomas H. Russell,
 James G. Sanderson,
 Jonathan B. Severance,
 Benjamin Smith,
 William B. Spooner,
 Francis D. Stedman,
 John L. Swift,
 Newton Talbot,
 David Thayer,
 George N. Thomson,
 Otis Tufts,
 Alexander H. Twombly,
 Samuel Wadsworth,
 John G. Webster,
 Albert J. Wright,
 Edwin Wright.
 Frank B. Fay,
 John E. Wilder.

Chelsea,

North Chelsea,
Winthrop,

COUNTY OF ESSEX.

Amesbury,
Andover,

Beverly,

Boxford,
Bradford,
Danvers,

Alfred E. Goodwin.
 George Foster,
 Charles Furber.*
 Charles Stephens,
 John Knowlton.
 George Pearl.
 Israel W. Andrews,

* Deceased.

<i>Danvers, (Con.)</i>	Arthur A. Putnam, Richard Smith.
<i>Essex,</i>	Oliver H. P. Sargent.
<i>Georgetown,</i>	Joseph P. Stickney.
<i>Gloucester,</i>	George Norwood, John S. Webber.
<i>Groveland,</i>	John Tenney.
<i>Hamilton,</i>	
<i>Haverhill,</i>	Jesse Simonds, William Taggart.
<i>Ipswich,</i>	Joseph Farley.
<i>Lawrence,</i>	Walker Flanders, William Hardy, Nathan W. Harmon.
<i>Lynn,</i>	Jeremiah C. Bacheller, George H. Chase, Henry H. Payne, Edwin Walden.
<i>Lynnfield,</i>	David A. Titcomb.
<i>Manchester,</i>	Larkin Woodberry.
<i>Marblehead,</i>	John Lewis, Richard Ramsdell.
<i>Methuen,</i>	Willard Spaulding.
<i>Middleton,</i>	
<i>Nahant,</i>	
<i>Newbury,</i>	William W. Perkins.
<i>Newburyport,</i>	Thomas Atwood, Hervey Kimball, David Wood.
<i>North Andover,</i>	
<i>Rockport,</i>	Thomas Hale.
<i>Rowley,</i>	
<i>Salem,</i>	Eleazer Austin, John Bertram, William B. Brown, William Goodhue, Jr., James Kimball, William C. Prescott.
<i>Salisbury,</i>	William H. B. Carrier.

<i>Saugus,</i>	Jacob B. Calley.
<i>South Danvers,</i>	
<i>Swampscott,</i>	
<i>Topsfield,</i>	
<i>Wenham,</i>	
<i>West Newbury,</i>	Benjamin Edwards, Jr.

COUNTY OF MIDDLESEX.

<i>Acton,</i>	William D. Tuttle.
<i>Ashby,</i>	Cyrus A. Davis.
<i>Ashland,</i>	
<i>Bedford,</i>	Henry J. Patrick.
<i>Billerica,</i>	Dana Holden.
<i>Boxborough,</i>	
<i>Brighton,</i>	James Dana.
<i>Burlington,</i>	George Gleason.
<i>Cambridge,</i>	Josiah Burrage, Jr.,
	John C. Dodge,
	Henry S. Hills,
	William T. Richardson,
	William A. Saunders.
<i>Carlisle,</i>	
<i>Charlestown,</i>	James Lee, Jr.,
	Seth L. Loring,
	Eliab P. Mackintire,
	Timothy T. Sawyer,
	Amos Tufts.
<i>Chelmsford,</i>	David Perham.
<i>Concord,</i>	Richard Barrett.
<i>Dracut,</i>	Henry Richardson.
<i>Dunstable,</i>	
<i>Framingham,</i>	Albert Ballard.
<i>Groton,</i>	Warren F. Stone.
<i>Holliston,</i>	Edwin F. Whiting.
<i>Hopkinton,</i>	Albert Wood.
<i>Lexington,</i>	Charles Hudson.
<i>Lincoln,</i>	
<i>Littleton,</i>	

<i>Lowell,</i>	Shubael P. Adams, Noah Conant, Alfred Gilman, John A. Goodwin, Charles F. Hard, Joshua Merrill, Ira L. Moore, Joseph S. Pollard, Seth Pooler, Ignatius Tyler. George P. Cox. Hollis Loring. Elihu C. Baker. Guy Lamkin. Nathaniel Clark. James F. C. Hyde, Thomas Rice, Jr.
<i>Malden,</i>	
<i>Marlborough,</i>	
<i>Medford,</i>	
<i>Melrose,</i>	
<i>Natick,</i>	
<i>Newton,</i>	
<i>North Reading,</i>	
<i>Pepperell,</i>	Charles Tarbell.
<i>Reading,</i>	Amos Cummings, Jr.
<i>Sherborn,</i>	
<i>Shirley,</i>	Moses T. Gardner.
<i>Somerville,</i>	John S. Edgerly.
<i>South Reading,</i>	Madison Sweetser.
<i>Stoneham,</i>	Jesse Dike.
<i>Stow,</i>	Nathan S. Turner.
<i>Sudbury,</i>	Ephraim Stone.
<i>Tewksbury,</i>	
<i>Townsend,</i>	Luther Adams.
<i>Tyngsborough,</i>	Daniel Lawrence.
<i>Waltham,</i>	Horatio Moore.
<i>Watertown,</i>	Joseph B. Keyes.
<i>Wayland,</i>	James M. Bent.
<i>West Cambridge,</i>	John Schouler.
<i>Westford,</i>	Luther Prescott.
<i>Weston,</i>	Alpheus Morse.
<i>Wilmington,</i>	Asa G. Sheldon.
<i>Winchester,</i>	Alvin Taylor.
<i>Woburn,</i>	William T. Grammer.

COUNTY OF WORCESTER.

<i>Ashburnham,</i>	Joseph P. Rice.
<i>Athol,</i>	Charles Field.
<i>Auburn,</i>	
<i>Barre,</i>	James Miller.
<i>Berlin,</i>	
<i>Blackstone,</i>	Emanuel N. Paine.
<i>Bolton,</i>	John E. Fry.
<i>Boylston,</i>	William H. Sanford.
<i>Brookfield,</i>	Leonard Warren.
<i>Charlton,</i>	Rufus B. Dodge.
<i>Clinton,</i>	Horace Faulkner.
<i>Dana,</i>	Nathaniel L. Johnson.
<i>Douglas,</i>	David Phillips.
<i>Dudley,</i>	William H. Larned.
<i>Fitchburg,</i>	Goldsmith F. Bailey, Hale W. Page.
<i>Gardner,</i>	
<i>Grafton,</i>	Luke F. Allen.
<i>Hardwick,</i>	Constant Southworth.
<i>Harvard,</i>	
<i>Holden,</i>	Jonathan M. Ladd.
<i>Hubbardston,</i>	Henry Prentiss.
<i>Lancaster,</i>	James Childs.
<i>Leicester,</i>	Hanson L. Read.
<i>Leominster,</i>	James Bennett.
<i>Lunenburg,</i>	
<i>Mendon,</i>	Alexander H. Allen.
<i>Milford,</i>	Aaron C. Mayhew.
<i>Millbury,</i>	Joseph Robbins.
<i>New Braintree,</i>	Henry N. Daniels.
<i>Northborough,</i>	John Rice.
<i>Northbridge,</i>	Nathaniel D. Whitin.
<i>North Brookfield,</i>	Warren Tyler.
<i>Oakham,</i>	Nahum P. Humphrey.
<i>Oxford,</i>	Lament B. Corbin.
<i>Paxton,</i>	David G. Davis.
<i>Petersham,</i>	

<i>Phillipston,</i>	John Brooks.
<i>Princeton,</i>	Joseph Estabrook.
<i>Royalston,</i>	J. Warren Bigelow.
<i>Rutland,</i>	Jonathan Nichols.
<i>Shrewsbury,</i>	Henry S. Wheeler.
<i>Southborough,</i>	Laroy Litchfield.
<i>Southbridge,</i>	William Upham.
<i>Spencer,</i>	Moses Sawyer, 2d.
<i>Sterling,</i>	Vincent B. Newland,
<i>Sturbridge,</i>	Benjamin L. Bacheller.
<i>Sutton,</i>	Henry Smith.
<i>Templeton,</i>	Henry D. Johnson.
<i>Upton,</i>	Jacob Taft.
<i>Uxbridge,</i>	Joseph B. Lombard.
<i>Warren,</i>	Henry E. Bugbee.
<i>Webster,</i>	Clark R. Griggs.
<i>Westborough,</i>	Amos Child.
<i>West Boylston,</i>	John M. Fales.
<i>West Brookfield,</i>	Harrison G. Whitney.
<i>Westminster,</i>	Jacob B. Harris.
<i>Winchendon,</i>	John B. D. Cogswell,
<i>Worcester,</i>	William T. Merrifield,
	Dexter F. Parker,
	George F. Thompson,
	Stephen P. Twiss.

COUNTY OF HAMPSHIRE.

<i>Amherst,</i>	Enos D. Williams.
<i>Belchertown,</i>	Samuel A. Shaw.
<i>Chesterfield,</i>	
<i>Cummingtown,</i>	
<i>Easthampton,</i>	
<i>Enfield,</i>	
<i>Goshen,</i>	
<i>Granby,</i>	
<i>Greenwich,</i>	
<i>Hadley,</i>	Theodore Clark.

HOUSE OF REPRESENTATIVES.

<i>Hatfield,</i>	Silas G. Hubbard.
<i>Huntington,</i>	Thomas Ring.
<i>Middlefield,</i>	
<i>Northampton,</i>	John Deming, Erastus Hopkins.
<i>Pelham,</i>	
<i>Plainfield,</i>	
<i>Prescott,</i>	
<i>South Hadley,</i>	Gilbert A. Smith.
<i>Southampton,</i>	Almin B. Clapp.
<i>Ware,</i>	George H. Gilbert.
<i>Westhampton,</i>	
<i>Williamsburg,</i>	Otis G. Hill.
<i>Worthington,</i>	John Adams.

COUNTY OF HAMPDEN.

<i>Agawam,</i>	James C. Hinsdale.
<i>Blandford,</i>	Gilman Noyes.
<i>Brimfield,</i>	Samuel Stebbins.
<i>Chester,</i>	Lewis M. Ferry,
<i>Chicopee,</i>	John H. Smith, John Wells.
<i>Granville,</i>	
<i>Holland,</i>	
<i>Holyoke,</i>	Alfred White.
<i>Longmeadow,</i>	Stephen T. Colton.
<i>Ludlow,</i>	Elisha T. Parsons.
<i>Monson,</i>	Albert Norcross.
<i>Montgomery,</i>	
<i>Palmer,</i>	Sylvanus G. Shaw.
<i>Russell,</i>	
<i>Southwick,</i>	
<i>Springfield,</i>	John H. Fuller, Daniel L. Harris, Eliphalet Trask, Henry Vose.
<i>Tolland,</i>	

<i>Wales,</i>	
<i>Westfield,</i>	James Holland.
<i>West Springfield,</i>	Jonathan O. Mosely.
<i>Wilbraham,</i>	John B. Morris.

COUNTY OF FRANKLIN.

<i>Ashfield,</i>	Phillip Bassett.
<i>Bernardston,</i>	
<i>Buckland,</i>	Samuel L. Bardwell.
<i>Charlemont,</i>	F. W. White.
<i>Colrain,</i>	David A. Dennison.
<i>Conway,</i>	Robert A. Coffin.
<i>Deerfield,</i>	Moses Stebbins.
<i>Erving,</i>	
<i>Gill,</i>	Jonathan S. Purple.
<i>Greenfield,</i>	Wendell T. Davis.
<i>Hawley,</i>	
<i>Heath,</i>	Aaron Dickinson.
<i>Leverett,</i>	
<i>Leyden,</i>	
<i>Monroe,</i>	
<i>Montague,</i>	Calvin Russell.
<i>New Salem,</i>	Charles A. Perry.
<i>Northfield,</i>	William D. Hastings.
<i>Orange,</i>	Admiral A. Ward.
<i>Rowe,</i>	
<i>Shelburne,</i>	
<i>Shutesbury,</i>	
<i>Sunderland,</i>	
<i>Warwick,</i>	
<i>Wendell,</i>	
<i>Whately,</i>	

COUNTY OF BERKSHIRE.

<i>Adams,</i>	Salmon Burlingame, Henry Tyler.
<i>Alford,</i>	
<i>Becket,</i>	John Smith.

HOUSE OF REPRESENTATIVES.

<i>Cheshire,</i>	
<i>Clarksburg,</i>	
<i>Dalton,</i>	James Wilson.
<i>Egremont,</i>	
<i>Florida,</i>	
<i>Great Barrington,</i>	Lorenzo H. Rice.
<i>Hancock,</i>	
<i>Hinsdale,</i>	
<i>Lanesborough,</i>	Veloras Burlingham.
<i>Lee,</i>	Caleb Benton.
<i>Lenox,</i>	James H. Collin.
<i>Monterey,</i>	
<i>Mount Washington,</i>	
<i>New Ashford,</i>	
<i>New Marlborough,</i>	John P. Wadsworth.
<i>Otis,</i>	
<i>Peru,</i>	
<i>Pittsfield,</i>	George Campbell, Elijah H. Dodge.
<i>Richmond,</i>	
<i>Sandisfield,</i>	Sylvester Jones.
<i>Savoy,</i>	
<i>Sheffield,</i>	Gershom M. Fitch.
<i>Stockbridge,</i>	Henry Dresser.
<i>Tyringham,</i>	
<i>Washington,</i>	
<i>West Stockbridge,</i>	Franklin B. Cone.
<i>Williamstown,</i>	Levi Smedley.
<i>Windsor,</i>	

COUNTY OF NORFOLK.

<i>Bellingham,</i>	Martin Rockwood, Jr.
<i>Braintree,</i>	Jason G. Howard.
<i>Brookline,</i>	Abijah W. Goddard.
<i>Canton,</i>	Charles Endicott.
<i>Cohasset,</i>	John Q. A. Lothrop.
<i>Dedham,</i>	Ezra W. Taft.

<i>Dorchester,</i>	Edward H. R. Ruggles, George M. Browne.
<i>Dover,</i>	
<i>Foxborough,</i>	John Littlefield.
<i>Franklin,</i>	Theron C. Hills.
<i>Medfield,</i>	
<i>Medway,</i>	Tisdale S. White.
<i>Milton,</i>	Amos Poole.
<i>Needham,</i>	George K. Daniell.
<i>Quincy,</i>	George L. Gill, Francis M. Johnson.
<i>Randolph,</i>	Jonathan Wales.
<i>Roxbury,</i>	Joseph N. Brewer, Isaac S. Burrill, Abijah W. Draper, Thomas Farmer, William S. King, Amos Stevens.
<i>Sharon,</i>	Moses Richards, Jr.
<i>Stoughton,</i>	Elisha C. Monk.
<i>Walpole,</i>	Jeremiah Allen.
<i>Weymouth,</i>	Joseph Loud, Jr., David S. Murray.
<i>West Roxbury,</i>	
<i>Wrentham,</i>	Preston Pond.

COUNTY OF BRISTOL.

<i>Attleborough,</i>	Hervey M. Richards,
<i>Berkley,</i>	
<i>Dartmouth,</i>	Nathaniel Potter, Jr.
<i>Dighton,</i>	Benjamin Trafton.
<i>Easton,</i>	John Kimball.
<i>Fairhaven,</i>	Daniel J. Lewis.
<i>Fall River,</i>	Vernon Cook, John E. Grouard, Jonathan E. Morrill, Brownell W. Woodman.
<i>Freetown,</i>	Ambrose W. Hathaway.

<i>Mansfield,</i>	Willard Billings.
<i>New Bedford,</i>	William H. Allen, William W. Crapo, George H. Dunbar, Hattil Kelley, Thomas H. Soule.
<i>Norton,</i>	Leonard Hodges.
<i>Pawtucket,</i>	Albert Bliss.
<i>Raynham,</i>	Robert Carver.
<i>Rehoboth,</i>	Charles M. Dean.
<i>Seekonk,</i>	Sydney Daggett.
<i>Somerset,</i>	
<i>Swanzy,</i>	
<i>Taunton,</i>	Lawson Blood, Charles Foster, Henry H. Fox.
<i>Westport,</i>	Abiel Davis.

COUNTY OF PLYMOUTH.

<i>Abington,</i>	Daniel U. Johnson, James W. Ward.
<i>Bridgewater,</i>	Joshua E. Crane.
<i>Carver,</i>	
<i>Duxbury,</i>	William J. Alden.
<i>East Bridgewater,</i>	Asa Mitchell.
<i>Halifax,</i>	
<i>Hanover,</i>	Isaac M. Wilder.
<i>Hanson,</i>	Samuel L. Rockwood.
<i>Hingham,</i>	William Whiton.
<i>Hull,</i>	
<i>Kingston,</i>	Henry Hunt.
<i>Lakeville,</i>	
<i>Marion,</i>	
<i>Marshfield,</i>	Charles W. Macomber.
<i>Mattapoisett,*</i>	

* Incorporated, 1857.

<i>Middleborough,</i>	Calvin D. Kingman, William H. Wood.
<i>North Bridgewater,</i>	Paul Couch.
<i>Pembroke,</i>	
<i>Plymouth,</i>	Gustavus D. Bates, Eleazer C. Sherman.
<i>Plympton,</i>	
<i>Rochester,</i>	Garrison B. Blackmer.
<i>Scituate,</i>	Thomas Conant.
<i>South Scituate,</i>	Horatio N. Gardner.
<i>Wareham,</i>	John M. Kinney.
<i>West Bridgewater,</i>	James Copeland.

COUNTY OF BARNSTABLE.

<i>Barnstable,</i>	Nathaniel Hinckley, Asa E. Lovell.
<i>Brewster,</i>	Tully Crosby.
<i>Chatham,</i>	Thomas Dodge.
<i>Dennis,</i>	Luther Studley.
<i>Eastham,</i>	
<i>Falmouth,</i>	James T. Dillingham.
<i>Harwich,</i>	Elkanah Nickerson.
<i>Orleans,</i>	Chapman Seabury.
<i>Provincetown,</i>	Nathaniel E. Atwood.
<i>Sandwich,</i>	Charles H. Nye.
<i>Truro,</i>	Adin H. Newton.
<i>Wellfleet,</i>	Richard Stubbs.
<i>Yarmouth,</i>	Zadok Crowell.

DUKE'S COUNTY.

<i>Chilmark,</i>	
<i>Edgartown,</i>	John Vinson.
<i>Tisbury,</i>	Henry Bradley.

COUNTY OF NANTUCKET.

<i>Nantucket,</i>	John Morissey, Edward Hammond, William W. Wood.
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HOUSE OF REPRESENTATIVES.

WILLIAM STOWE, *Clerk.*

STEPHEN N. GIFFORD, *Assistant-Clerk.*

REV. DANIEL FOSTER, *Chaplain.*

BENJAMIN STEVENS, *Sergeant-at-Arms.*

ALEXIS POOLE, *Door-keeper.*

HENRY OAKS, *Messenger.*

GUSTAVUS E. HAYNES, *Assistant-Messenger.*

WILLIAM SAYWARD, *Postmaster.*

JOSEPH P. DEXTER, Jr., *Page.*

AMASA H. TOLMAN, *Assistant-Page.*

A CONSTITUTION

OR

FORM OF GOVERNMENT

FOR THE

Commonwealth of Massachusetts.

P R E A M B L E .

THE end of the institution, maintenance and administration of government, is to secure the existence of the body politic ; to protect it ; and to furnish the individuals who compose it, with the power of enjoying, in safety and tranquillity, their natural rights, and the blessings of life : and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

Objects of government.

The body politic is formed by a voluntary association of individuals ; it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them ; that every man may, at all times, find his security in them.

Body politic, how formed. Its nature.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of his providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other ; and of form-

ing a new constitution of civil government for ourselves and posterity; and devoutly imploring his direction in so interesting a design, do agree upon, ordain and establish, the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION of the COMMONWEALTH OF MASSACHUSETTS.

PART THE FIRST.

A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts.

Equality and natural rights of all men.

ART. I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

Right and duty of public religious worship.

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

Protection therein.

See amendments, Art. XI.

III. As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of GOD, and of public instructions in piety, religion and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of GOD, and for the support and maintenance of public Protestant teachers of piety, religion

Legislature empowered to compel provision for public worship;

and morality, in all cases where such provision shall not be made voluntarily.

And the people of this Commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

and to enjoin attendance thereon. See amendments, Art. XI.

Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

Exclusive right of electing religious teachers secured.

And all moneys, paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

Option as to whom parochial taxes may be paid, unless, &c.

See amendments, Art. XI.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the Commonwealth, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another shall ever be established by law.

All denominations equally protected.

Subordination of one sect to another prohibited.

IV. The people of this Commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent State; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled.

Right of self-government secured.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

Accountability of all officers, &c.

VI. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

Services rendered to the public being the only title to peculiar privileges, hereditary offices are absurd and unnatural.

Objects of government; right of people to institute and change it.

VII. Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it.

Right of people to secure rotation in office.

VIII. In order to prevent those, who are vested with authority, from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

All, having the qualifications prescribed, equally eligible to office.

IX. All elections ought to be free; and all the inhabitants of this Commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

Right of protection and duty of contribution correlative.

X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual, can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this Commonwealth are not controllable by any other laws, than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

Taxation founded on consent.

Private property not to be taken for public uses without, &c.

Remedies by recourse to the law, to be free, complete, and prompt

XI. Every subject of the Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws.

Prosecutions regulated.

XII. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself: and every subject shall have a right to produce all proofs that may be favorable to

him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

Right to trial by jury, in criminal cases, except, &c.

XIII. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

Crimes to be proved in the vicinity.

XIV. Every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases, and with the formalities, prescribed by the laws.

Right of search and seizure regulated.

XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

Right to trial by jury sacred, except, &c.

XVI. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this Commonwealth.

Liberty of the press.

XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

Right to keep and bear arms. Standing armies dangerous. Military power subordinate to civil.

XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people

Moral qualifications for office.

Moral obligations of lawgivers and magistrates.

ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the Commonwealth.

Right of people to instruct representatives and petition legislature.

XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

Power to suspend the laws or their execution.

XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

Freedom of debate, &c., and reason thereof.

XXI. The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

Frequent sessions, and objects thereof.

XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new laws, as the common good may require.

Taxation founded on consent.

XXIII. No subsidy, charge, tax, impost, or duties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.

Ex post facto laws prohibited.

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

Legislature not to convict of treason, &c.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

Excessive bail or fines, and cruel punishments prohibited

XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

No soldier to be quartered in any house, unless, &c

XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

Citizens exempt from law-martial, unless, &c.

XXVIII. No person can in any case be subjected to law-martial, or to any penalties or pains, by virtue of that

law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well, and that they should have honorable salaries ascertained and established by standing laws.

Judges of supreme judicial court.

Tenure of their office.

Salaries.

XXX. In the government of this Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws, and not of men.

Separation of executive, judicial, and legislative departments

PART THE SECOND.

The Frame of Government.

THE people, inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body politic or state, by the name of THE COMMONWEALTH OF MASSACHUSETTS.

CHAPTER I.

THE LEGISLATIVE POWER.

SECTION I.

The General Court.

ART. I. The department of legislation shall be formed by two branches, a Senate and House of representatives; each of which shall have a negative on the other.

Legislative department.

See amendments,
Art. X.

The legislative body shall assemble every year, on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May; and shall be styled, THE GENERAL COURT OF MASSACHUSETTS.

Governor's veto.

II. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revival; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichever the same shall have originated, who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve: but if, after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law: but in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the Commonwealth.

Bill may be passed by two-thirds of each house, notwithstanding.

See amendments,
Art. I.

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law.

General court may constitute judicatories, courts of record, &c.

III. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the Commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, complaints, actions, matters, causes and things, whatsoever, arising or happening within the Commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same; whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon: to which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

Courts, &c., may administer oaths.

IV. And further, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain and establish, all manner of wholesome and reasonable orders, laws, statutes and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this Commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling, all civil officers within the said Commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers and limits, of the several civil and military officers of this Commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said Commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this Commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the said Commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

General court may enact laws, &c.,

not repugnant to the constitution;

may provide for the election or appointment of officers;

prescribe their duties;

impose taxes;

duties and excises;

to be disposed of for defence, protection, &c.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practiced, in order that such assessments may be made with equality, there shall be a valuation of estates within the Commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order.

Valuation of estates once in ten years, at least, while, &c.

CHAPTER I.

SECTION II.

Senate.

Senate, number of, and by whom elected.
See amendments, Arts. XIII. and XVI.

ART. I. There shall be annually elected, by the freeholders and other inhabitants of this Commonwealth, qualified as in this constitution is provided, forty persons to be councillors and senators, for the year ensuing their election; to be chosen by the inhabitants of the districts, into which the Commonwealth may from time to time be divided by the general court for that purpose: and the general court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known, to the inhabitants of the Commonwealth, the limits of each district, and the number of councillors and senators to be chosen therein: provided, that the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six senators.

Counties to be districts, until, &c.
See amendments, Arts. XIII. and XXII.

And the several counties in this Commonwealth shall, until the general court shall determine it necessary to alter the said districts, be districts for the choice of councillors and senators, (except that the counties of Dukes county and Nantucket shall form one district for that purpose,) and shall elect the following number for councillors and senators, viz. :—

Suffolk, six.	York, two.
Essex, six.	Dukes Co. and Nantucket, one.
Middlesex, five.	Worcester, five.
Hampshire, four.	Cumberland, one.
Plymouth, three.	Lincoln, one.
Barnstable, one.	Berkshire, two.
Bristol, three.	

Manner and time of choosing senators and councillors.
See amendments, Arts. II., X., XIV. and XV.

II. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz. : there shall be a meeting on the first Monday in April, annually, forever, of the inhabitants of each town in the several counties of this Commonwealth, to be called by the selectmen, and warned in due course of law, at least seven days before the first Monday in April, for the purpose of electing persons to be senators and councillors; and at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate, within the Com-

See amendments, Arts. III. and XX.

monwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the senators for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word "inhabitant," in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this State, in that town, district, or plantation, where he dwelleth, or hath his home.

Word "inhabitant" defined.

The selectmen of the several towns shall preside at such meetings impartially, and shall receive the votes of all the inhabitants of such towns, present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the Commonwealth, for the time being, with a superscription expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before the last Wednesday in May, annually; or it shall be delivered into the secretary's office seventeen days at least before the said last Wednesday in May: and the sheriff of each county shall deliver all such certificates, by him received, into the secretary's office, seventeen days before the said last Wednesday in May.

Selectmen to preside at town meetings.

Return of votes

See amendments, Arts. II. and X.

And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for counsellors and senators, in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held, annually, on the same first Monday in April, at such place in the plantations, respectively, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns, by this constitution. And all other persons living in places unincorporated, (qualified as aforesaid,) who shall be assessed to the support of government, by the assessors of an adjacent town, shall have the privilege of giving in their votes for counsellors and senators, in the

Inhabitants of unincorporated plantations, who pay state taxes, may vote.

Plantation meetings.

See amendments, Art. X.

Assessors to notify, &c.

town where they shall be assessed, and be notified of the place of meeting, by the selectmen of the town where they shall be assessed, for that purpose, accordingly.

Governor and council to examine and count votes, and issue summonses.

See amendments, Art. X.

III. And that there may be a due convention of senators on the last Wednesday in May, annually, the governor, with five of the council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day, he shall issue his summons to such persons as shall appear to be chosen by a majority of voters, to attend on that day, and take their seats accordingly: provided, nevertheless, that for the first year, the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

Senate to be final judge of elections, &c., of its own members.

See amendments, Art. X.

IV. The senate shall be the final judge of the elections, returns, and qualifications of their own members, as pointed out in the constitution; and shall, on the said last Wednesday in May, annually, determine and declare who are elected by each district, to be senators, by a majority of votes: and in case there shall not appear to be the full number of senators returned, elected by a majority of votes, for any district, the deficiency shall be supplied in the following manner, viz.: The members of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these, shall elect by ballot a number of senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled up in every district of the Commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the State, or otherwise, shall be supplied as soon as may be after such vacancies shall happen.

Qualifications of a senator. See amendments, Art. XIII.

V. Provided, nevertheless, that no person shall be capable of being elected as a senator, who is not seized in his own right of a freehold, within this Commonwealth, of the value of three hundred pounds at least, or possessed of personal estate of the value of six hundred pounds at least, or of both to the amount of the same sum, and who has not been an inhabitant of this Commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district for which he shall be chosen.

VI. The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

Senate not to adjourn more than two days.

VII. The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings.

Shall choose its officers and establish its rules.

VIII. The senate shall be a court, with full authority, to hear and determine all impeachments made by the house of representatives, against any officer or officers of the Commonwealth, for misconduct and mal-administration in their offices: but, previous to the trial of every impeachment, the members of the senate shall, respectively, be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office, and disqualification to hold or enjoy any place of honor, trust, or profit, under this Commonwealth: but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment and punishment, according to the laws of the land.

Shall try all impeachments.

Oath.

Limitation of sentence.

IX. Not less than sixteen members of the senate shall constitute a quorum for doing business.

Quorum.

CHAPTER I.

SECTION III.

House of Representatives.

ART. I. There shall be, in the legislature of this Commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.

Representation of the people.

II. And in order to provide for a representation of the citizens of this Commonwealth, founded upon the principle of equality, every corporate town, containing one hundred and fifty ratable polls, may elect one representative; every corporate town, containing three hundred and seventy-five ratable polls, may elect two representatives; every corporate town, containing six hundred ratable polls, may elect three representatives; and proceeding in that manner, making two hundred and twenty-five ratable polls the mean increasing number for every additional representative.

Representatives, by whom chosen. See amendments, Arts. XI., XIII. and XXI.

Provided, nevertheless, that each town now incorporated, not having one hundred and fifty ratable polls, may elect one representative; but no place shall hereafter be incorporated with the privilege of electing a representative, unless there are within the same one hundred and fifty ratable polls.

Proviso as to towns having less than 150 ratable polls.

Towns liable to fine in case, &c.

And the house of representatives shall have power, from time to time, to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

Expense of travelling to and from the general court, how paid.

The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave.

Qualifications of a representative. See amendments, Arts. XIII. and XIV.

III. Every member of the house of representatives shall be chosen by written votes; and, for one year at least next preceding his election, shall have been an inhabitant of, and have been seized in his own right of, a freehold of the value of one hundred pounds, within the town he shall be chosen to represent, or any ratable estate to the value of two hundred pounds; and he shall cease to represent the said town, immediately on his ceasing to be qualified as aforesaid.

Qualifications of a voter.

IV. Every male person, being twenty-one years of age, and resident in any particular town in this Commonwealth, for the space of one-year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town.

Representatives, when chosen. See amendments, Arts. X. and XV.

V. The members of the house of representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.

House alone can impeach.

VI. The house of representatives shall be the grand inquest of this Commonwealth; and all impeachments made by them shall be heard and tried by the senate.

House to originate all money bills.

VII. All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

Not to adjourn more than two days.

VIII. The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

Quorum. See amendments, Art. XXI.

IX. Not less than sixty members of the house of representatives shall constitute a quorum for doing business.

House to judge of returns, &c., of its own members; to choose its officers and establish its rules, &c.

X. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker, appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment, every person, not a member, who shall be guilty of disrespect to the house, by

May punish for certain offences.

any disorderly or contemptuous behavior in its presence ; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house ; or who shall assault any of them therefor ; or who shall assault, or arrest, any witness, or other person, ordered to attend the house, in his way in going, or returning ; or who shall rescue any person arrested by the order of the house.

And no member of the house of representatives shall be arrested, or held to bail on mean process, during his going unto, returning from, or his attending, the general assembly.

Privileges of members.

XI. The senate shall have the same powers in the like cases ; and the governor and council shall have the same authority to punish in like cases : provided, that no imprisonment, on the warrant or order of the governor, council, senate, or house of representatives, for either of the above described offences, be for a term exceeding thirty days.

Governor and council may punish.

General limitation.

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may, respectively, think best.

Trial may be by committee, or otherwise.

CHAPTER II.

EXECUTIVE POWER.

SECTION I.

Governor.

ART. I. There shall be a supreme executive magistrate, who shall be styled—THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS ; and whose title shall be—HIS EXCELLENCY.

Governor.

His title.

II. The governor shall be chosen annually ; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this Commonwealth for seven years next preceding ; and unless he shall, at the same time, be seized, in his own right, of a freehold, within the Commonwealth, of the value of one thousand pounds ; and unless he shall declare himself to be of the Christian religion.

To be chosen annually. qualifications.

See amendments. Art. VII

By whom chosen,
if he have a ma-
jority of votes.

See amendments,
Arts. II., X., XIV.
and XV.

III. Those persons who shall be qualified to vote for senators and representatives, within the several towns of this Commonwealth, shall, at a meeting to be called for that purpose, on the first Monday of April, annually, give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the last Wednesday in May; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the said last Wednesday in May; or the selectmen may cause returns of the same to be made, to the office of the secretary of the Commonwealth, seventeen days, at least, before the said day; and the secretary shall lay the same before the senate and the house of representatives, on the last Wednesday in May, to be by them examined; and in case of an election by a majority of all the votes returned, the choice shall be by them declared and published; but if no person shall have a majority of votes, the house of representatives shall, by ballot, elect two out of four persons, who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which, the senate shall proceed, by ballot, to elect one, who shall be declared governor.

How chosen,
when no person
has a majority.

Power of govern-
or, and of gov-
ernor and coun-
cil.

IV. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this Commonwealth for the time being; and the governor, with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the Commonwealth, agreeably to the constitution and the laws of the land.

Same subject.

V. The governor, with advice of council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same to any time the two houses shall desire; and to dissolve the same on the day next preceding the last Wednesday in May; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess; and to call it

See amendments,
Art. X.

together sooner than the time to which it may be adjourned or prorogued, if the welfare of the Commonwealth shall require the same; and in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other the most convenient place within the State.

And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May.

See amendments,
Art. X.

VI. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment, or prorogation, the governor, with advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

Governor and council may adjourn the general court in cases, &c., but not exceeding ninety days.

VII. The governor of this Commonwealth, for the time being, shall be the commander-in-chief of the army and navy, and of all the military forces of the State, by sea and land; and shall have full power, by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy; and, for the special defence and safety of the Commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them, to encounter, repel, resist, expel and pursue, by force of arms, as well by sea as by land, within or without the limits of this Commonwealth, and also to kill, slay and destroy, if necessary, and conquer, by all fitting ways, enterprises and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment, or annoyance of this Commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this Commonwealth; and that the governor be intrusted with all these and other powers, incident to the offices of captain-general and commander-in-chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land, and not otherwise.

Governor to be commander-in-chief.

Limitation.

Provided, that the said governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this Commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the State to which they cannot otherwise conveniently have access.

Governor and council may pardon offences, except, &c.

VIII. The power of pardoning offences, except such as persons may be convicted of before the senate, by an impeachment of the house, shall be in the governor, by and with the advice of council; but no charter of pardon, granted by the governor, with advice of the council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

But not before conviction.

All judicial officers, &c., how nominated and appointed. See amendments, Arts. XIV., XVII. and XIX.

IX. All judicial officers, the attorney-general, the solicitor-general, all sheriffs, coroners, and registers of probate, shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

Militia officers, how elected.

X. The captains and subalterns of the militia shall be elected by the written votes of the train-band and alarm list of their respective companies, of twenty-one years of age and upwards; the field officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments; the brigadiers shall be elected, in like manner, by the field officers of their respective brigades; and such officers, so elected, shall be commissioned by the governor, who shall determine their rank.

See amendments, Art. V.

How commissioned.

The legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the governor the officers elected.

Major-generals, how appointed and commissioned.

The major-generals shall be appointed by the senate and house of representatives, each having a negative upon the other; and be commissioned by the governor.

Vacancies, how filled, in case, &c.

And if the electors of brigadiers, field officers, captains or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the governor, with advice of council, shall appoint suitable persons to fill such offices.

Officers duly commissioned, how removed.

And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address

of both houses to the governor, or by fair trial in court martial, pursuant to the laws of the Commonwealth for the time being.

See amendments, Art. IV.

The commanding officers of regiments shall appoint their adjutants and quarter-masters; the brigadiers their brigade-majors; and the major-generals their aids; and the governor shall appoint the adjutant-general.

Adjutants, &c., how appointed.

The governor, with advice of council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this Commonwealth shall appoint,—as also all officers of forts and garrisons.

The divisions of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this Commonwealth, until the same shall be altered in pursuance of some future law.

Organization of militia.

XI. No moneys shall be issued out of the treasury of this Commonwealth and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the Commonwealth, and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

Money, how drawn from the treasury, except. &c.

XII. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this Commonwealth, and all commanding officers of forts and garrisons within the same, shall, once in every three months, officially and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care, respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbor or harbors, adjacent.

All public boards, &c., to make quarterly returns

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, despatches, and intelligences of a public nature, which shall be directed to them respectively.

Salary of gov-
ernor.

XIII. As the public good requires that the governor should not be under the undue influence of any of the members of the general court, by a dependence on them for his support—that he should, in all cases, act with freedom for the benefit of the public—that he should not have his attention necessarily diverted from that object to his private concerns—and that he should maintain the dignity of the Commonwealth in the character of its chief magistrate—it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: and it shall be among the first acts of the general court, after the commencement of this constitution, to establish such salary by law accordingly.

Salaries of jus-
tices of supreme
judicial court.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

Salaries to be en-
larged, if insuffi-
cient.

And if it shall be found, that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

CHAPTER II.

SECTION II.

Lieutenant-Governor.

Lieutenant-gov-
ernor; his title
and qualifica-
tions.

ART. I. There shall be annually elected a lieutenant-governor of the Commonwealth of Massachusetts, whose title shall be— HIS HONOR; and who shall be qualified, in point of religion, property, and residence in the Commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; and if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no one person shall have a majority of the votes of the people to be governor.

See amendments,
Arts. III., VI., X,
and XV.

How chosen.

President of
council.

Lieutenant-gov-
ernor a member
of, except, &c.

II. The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

III. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the Commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which, by this constitution, the governor is vested with, when personally present.

Lieutenant-governor to be acting governor, in case, &c.

CHAPTER II.

SECTION III.

Council, and the Manner of settling Elections by the Legislature.

ART. I. There shall be a council, for advising the governor in the executive part of the government, to consist of nine persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the land.

Council.
See amendments, Art. XVI.

II. Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room; and in case there shall not be found, upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left, shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.

Number: from whom, and how chosen.
See amendments, Arts. X., XIII. and XVI.

If senators become councillors, their seats to be vacated.

III. The councillors, in the civil arrangements of the Commonwealth, shall have rank next after the lieutenant-governor.

Rank of councillors.

IV. Not more than two councillors shall be chosen out of any one district of this Commonwealth.

No district to have more than two.

V. The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for, at any time, by either house of the legislature; and any member of the council

Register of council.

may insert his opinion, contrary to the resolution of the majority.

Council to exercise the power of governor, in case, &c.

VI. Whenever the office of the governor and lieutenant-governor shall be vacant, by reason of death, absence, or otherwise, then the council, or the major part of them, shall, during such vacancy, have full power and authority, to do, and execute, all and every such acts, matters and things, as the governor or the lieutenant-governor might or could, by virtue of this constitution, do or execute, if they, or either of them, were personally present.

Elections may be adjourned until, &c.

VII. And whereas the elections appointed to be made by this constitution, on the last Wednesday in May annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day, until the same shall be completed. And the order of elections shall be as follows: the vacancies in the senate, if any, shall first be filled up; the governor and lieutenant-governor shall then be elected, provided there should be no choice of them by the people; and afterwards the two houses shall proceed to the election of the council.

Order thereof.

CHAPTER II.

SECTION IV.

Secretary, Treasurer, Commissary, &c.

Secretary, &c.; by whom and how chosen. See amendments, Arts IV. and XVII.

Treasurer ineligible for more than five successive years.

Secretary to keep records; to attend the governor and council, &c.

ART. I. The secretary, treasurer and receiver-general, and the commissary-general, notaries public, and naval officers, shall be chosen annually, by joint ballot of the senators and representatives, in one room. And, that the citizens of this Commonwealth may be assured, from time to time, that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer and receiver-general more than five years successively.

II. The records of the Commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable, and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

CHAPTER III.

JUDICIARY POWER.

ART. I. The tenure, that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature.

Teuure of all commissioned officers to be expressed. Judicial officers to hold office during good behavior, except, &c. But may be removed on address

II. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

Justices of supreme judicial court to give opinions when required.

III. In order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates: and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well being of the Commonwealth.

Justices of the peace; tenure of their office.

IV. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter, appoint such times and places; until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

Provisions for holding probate courts.

V. All causes of marriage, divorce and alimony, and all appeals from the judges of probate, shall be heard and determined by the governor and council, until the legislature shall, by law, make other provision.

Provisions for determining causes of marriage, divorce, &c.

CHAPTER IV.

DELEGATES TO CONGRESS.

THE delegates of this Commonwealth to the congress of the United States shall, some time in the month of June, annually, be elected by the joint ballot of the senate and

Delegates to congress.

house of representatives, assembled together in one room ; to serve in congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the governor, and the great seal of the Commonwealth ; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.

CHAPTER V.

THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE, &c.

SECTION I.

The University.

Harvard College.

ART. I. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences which qualified them for public employments, both in church and state ; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of GOD, the advantage of the Christian religion, and the great benefit of this, and the other United States of America,—it is declared, that the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have, or are entitled to have, hold, use, exercise and enjoy ; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers, and servants, respectively, forever.

Powers, privileges, &c., of the president and fellows, confirmed.

II. And whereas there have been, at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college, by some other description, under several charters successively ; it is declared, that all the said gifts, grants, devises, legacies and conveyances, are hereby forever confirmed unto the president and fellows of

All gifts, grants, &c., confirmed.

Harvard College, and to their successors, in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, deviser or devisors.

III. And whereas by an act of the general court of the colony of Massachusetts Bay, passed in the year one thousand six hundred and forty-two, the governor and deputy-governor, for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in the said act described, constituted the overseers of Harvard College; and it being necessary, in this new constitution of government, to ascertain who shall be deemed successors to the said governor, deputy-governor, and magistrates; it is declared, that the governor, lieutenant-governor, council and senate of this Commonwealth, are, and shall be deemed, their successors; who, with the president of Harvard College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining, to the overseers of Harvard College: provided, that nothing herein shall be construed to prevent the legislature of this Commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the legislature of the late Province of the Massachusetts Bay.

Who shall be overseers.

Power of alteration reserved to the legislature.

CHAPTER V.

SECTION II.

The Encouragement of Literature, &c.

WISDOM and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools, and grammar schools

Duty of legislatures and magistrates in all future periods. See amendments, Art. XVIII.

in the towns; to encourage private societies, and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments among the people.

CHAPTER VI.

OATHS AND SUBSCRIPTIONS; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES; PECUNIARY QUALIFICATIONS; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISAL OF THE CONSTITUTION, &c.

ART. I. Any person chosen governor, lieutenant-governor, councillor, senator, or representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz.:

See amendments,
Art. VII.

“I, A. B., do declare, that I believe the Christian religion, and have a firm persuasion of its truth; and that I am seized and possessed, in my own right, of the property required by the constitution, as one qualification for the office or place to which I am elected.”

And the governor, lieutenant-governor, and councillors, shall make and subscribe the said declaration, in the presence of the two houses of assembly; and the senators and representatives, first elected under this constitution, before the president and five of the council of the former constitution, and forever afterwards, before the governor and council for the time being.

And every person, chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz.:

See amendments,
Art. VI.

“I, A. B., do truly and sincerely acknowledge, profess, testify and declare, that the Commonwealth of Massachu-

setts is, and of right ought to be, a free, sovereign, and independent State; and I do swear, that I will bear true faith and allegiance to the said Commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever; and that I do renounce and abjure all allegiance, subjection and obedience to the king, queen, or government of Great Britain, (as the case may be,) and every other foreign power whatsoever; and that no foreign prince, person, prelate, state, or potentate, hath, or ought to have, any jurisdiction, superiority, preëminence, authority, dispensing or other power, in any matter, civil, ecclesiastical or spiritual, within this Commonwealth; except the authority and power which is or may be vested by their constituents in the congress of the United States: and I do further testify and declare, that no man, or body of men, hath, or can have, any right to absolve or discharge me from the obligation of this oath, declaration, or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me, GOD."

"I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution, and the laws of the Commonwealth. So help me, GOD."

Provided, always, that when any person, chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oaths, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words "*I do swear,*" "*and abjure,*" "*oath or,*" "*and abjuration,*" in the first oath; and in the second oath, the words, "*swear and,*" and in each of them the words "*So help me, GOD;*" subjoining instead thereof, "*This I do under the pains and penalties of perjury.*"

And the said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor, and councilors, before the president of the senate, in the presence of the two houses of assembly; and by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for

the time being; and by the residue of the officers aforesaid, before such persons, and in such manner, as from time to time shall be prescribed by the legislature.

Plurality of offices prohibited to governor, &c., except, &c.

II. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this Commonwealth, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace through the State; nor shall they hold any other place or office, or receive any pension or salary from any other State, or government, or power, whatever.

Same subject.

No person shall be capable of holding or exercising at the same time, within this State, more than one of the following offices, viz.: judge of probate—sheriff—register of probate—or register of deeds; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the State at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person.

Incompatible offices.

See amendments, Art. VIII.

No person holding the office of judge of the supreme judicial court—secretary—attorney-general—solicitor-general—treasurer or receiver-general—judge of probate—commissary-general—president, professor, or instructor of Harvard College—sheriff—clerk of the house of representatives—register of probate—register of deeds—clerk of the supreme judicial court—clerk of the inferior court of common pleas—or officer of the customs, including in this description naval officers—shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up.

Same subject.

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in council; or any councillor shall accept of either of those offices or places.

Bribery, &c., operates disqualification.

And no person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under the government of this Commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption, in obtaining an election or appointment.

Value of money ascertained.

III. In all cases, where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at six shillings and eight pence per ounce; and it

Property qualifi-

shall be in the power of the legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the Commonwealth shall require.

elections may be increased.

IV. All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the governor, and attested by the secretary or his deputy, and have the great seal of the Commonwealth affixed thereto.

Provisions respecting commissions.

V. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

Provisions respecting writs.

VI. All the laws, which have heretofore been adopted and approved, in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

Continuation of former laws, except, &c.

VII. The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this Commonwealth, in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

Benefit of habeas corpus secured, except, &c.

VIII. The enacting style, in making and passing all acts, statutes and laws, shall be—"Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same."

The enacting style.

IX. To the end there may be no failure of justice, or danger arise to the Commonwealth, from a change of the form of government, all officers, civil and military, holding commissions under the government and people of Massachusetts Bay, in New England, and all other officers of the said government and people, at the time this constitution shall take effect, shall have, hold, use, exercise and enjoy all the powers and authority to them granted or committed, until other persons shall be appointed in their stead; and all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies and powers, shall continue in full force, in the enjoyment and exercise of all their trusts, employments and authority, until the general court, and the

Officers of former government continued until, &c.

supreme and executive officers under this constitution, are designated and invested with their respective trusts, powers and authority.

Provisions for re-
vising constitu-
tion.

X. In order the more effectually to adhere to the principles of the constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary, the general court, which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the selectmen of the several towns, and to the assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the constitution, in order to amendments.

Same subject.

And if it shall appear, by the returns made, that two-thirds of the qualified voters throughout the State, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the general court shall issue precepts, or direct them to be issued from the secretary's office, to the several towns, to elect delegates to meet in convention for the purpose aforesaid.

The said delegates to be chosen in the same manner and proportion as their representatives in the second branch of the legislature are by this constitution to be chosen.

Provision for pre-
serving and pub-
lishing this con-
stitution.

XI. This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this Commonwealth, in all future editions of the said laws.

ARTICLES OF AMENDMENT.

Bill, &c., not ap-
proved within five
days, not to be-
come a law, if leg-
islature adjourn
in the mean time.

ART. I. If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have been laid before the governor for his approbation, and thereby prevent his returning it, with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

ART. II. The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this Commonwealth, and to grant to the inhabitants thereof such powers, privileges and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants in wards, or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings: provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants; nor unless it be with the consent, and on the application, of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose; and provided, also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court.

General court empowered to charter cities.

Proviso.

ART. III. Every male citizen of twenty-one years of age and upwards, (excepting paupers and persons under guardianship,) who shall have resided within the Commonwealth one year, and within the town or district, in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, and who shall have paid, by himself or his parent, master, or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this Commonwealth; and also, every citizen who shall be by law exempted from taxation, and who shall be in all other respects qualified as above mentioned, shall have a right to vote in such election of governor, lieutenant-governor, senators and representatives; and no other person shall be entitled to vote in such elections.

Qualifications of voters for governor, lieutenant-governor, senators and representatives. 11 Pick. 538. See amendments, Art. XX.

ART. IV. Notaries public shall be appointed by the governor, in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the governor, with the consent of the council, upon the address of both houses of the legislature.

Notaries public, how appointed and removed.

In case the office of secretary or treasurer of the Commonwealth shall become vacant from any cause, during the recess of the general court, the governor, with the advice and consent of the council, shall nominate and appoint,

Vacancies in the offices of secretary and treasurer, how filled in case, &c. See amendments, Art. XVII.

under such regulations as may be prescribed by law, a competent and suitable person to such vacant office, who shall hold the same until a successor shall be appointed by the general court.

Commissary-general may be appointed, in case, &c.

Whenever the exigencies of the Commonwealth shall require the appointment of a commissary-general, he shall be nominated, appointed and commissioned, in such manner as the legislature may, by law, prescribe.

Militia officers, how removed.

All officers commissioned to command in the militia, may be removed from office in such manner as the legislature may, by law, prescribe.

Who may vote for captains and subalterns.

ART. V. In the elections of captains and subalterns of the militia, all the members of their respective companies, as well those under, as those above the age of twenty-one years, shall have a right to vote.

Oath to be taken by all officers ;

ART. VI. Instead of the oath of allegiance prescribed by the constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the government of this Commonwealth, before he shall enter on the duties of his office, to wit :—

or affirmation in case, &c.

“ I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, GOD.”

Provided, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word “swear,” and inserting, instead thereof, the word “affirm,” and omitting the words “So help me, God,” and subjoining, instead thereof, the words “This I do under the pains and penalties of perjury.”

Tests abolished.

ART. VII. No oath, declaration or subscription, excepting the oath prescribed in the preceding article, and the oath of office, shall be required of the governor, lieutenant-governor, councillors, senators or representatives, to qualify them to perform the duties of their respective offices.

Incompatibility of offices.

ART. VIII. No judge of any court of this Commonwealth, (except the court of sessions,) and no person holding any office under the authority of the United States, (postmasters excepted,) shall, at the same time, hold the office of governor, lieutenant-governor, or councillor, or have a seat in the senate or house of representatives of this Commonwealth;

and no judge of any court in this Commonwealth, (except the court of sessions,) nor the attorney-general, solicitor-general, county-attorney, clerk of any court, sheriff, treasurer and receiver-general, register of probate, nor register of deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of his said office; and judges of the courts of common pleas shall hold no other office under the government of this Commonwealth, the office of justice of the peace and militia offices excepted.

ART. IX. If, at any time hereafter, any specific and particular amendment or amendments to the constitution be proposed in the general court, and agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two houses, with the yeas and nays taken thereon, referred to the general court then next to be chosen, and shall be published; and if, in the general court next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, then it shall be the duty of the general court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters, voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the constitution of this Commonwealth.

Amendments to constitution, how made.

ART. X. The political year shall begin on the first Wednesday of January, instead of the last Wednesday of May; and the general court shall assemble every year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and do all the other acts, which are by the constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the governor. The

Commencement of political year,

and termination.

governor, lieutenant-governor and councillors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

Meetings for the choice of governor, lieutenant-governor, &c., when to be held. May be adjourned. See amendments, Art. XV.

The meeting for the choice of governor, lieutenant-governor, senators and representatives, shall be held on the second Monday of November in every year; but meetings may be adjourned, if necessary, for the choice of representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of representatives, such meetings shall be held on the fourth Monday of the same month of November.

All the other provisions of the constitution, respecting the elections and proceedings of the members of the general court, or of any other officers or persons whatever, that have reference to the last Wednesday of May as the commencement of the political year, shall be so far altered, as to have like reference to the first Wednesday of January.

Article, when to go into operation.

This article shall go into operation on the first day of October, next following the day when the same shall be duly ratified and adopted as an amendment of the constitution; and the governor, lieutenant-governor, councillors, senators, representatives, and all other state officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer; and the first election of the governor, lieutenant-governor, senators and representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of November following the day on which the same shall be in force and go into operation, pursuant to the foregoing provision.

Inconsistent provisions annulled.

All the provisions of the existing constitution, inconsistent with the provisions herein contained, are hereby wholly annulled.

Religious freedom established.

ART. XI. Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted:—

“As the public worship of God, and instructions in piety, religion and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this Commonwealth, whether corporate or unincorporate, at any meeting

legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses: and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made or entered into by such society: and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the Commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law."

ART. XII. In order to provide for a representation of the citizens of this Commonwealth, founded upon the principles of equality, a census of the ratable polls in each city, town and district of the Commonwealth, on the first day of May, shall be taken and returned into the secretary's office, in such manner as the legislature shall provide, within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter, in the month of May, in manner aforesaid: and each town or city having three hundred ratable polls at the last preceding decennial census of polls, may elect one representative, and for every four hundred and fifty ratable polls, in addition to the first three hundred, one representative more.

Census of ratable polls to be taken in 1837, and decennially thereafter.

Representatives, how apportioned. See amendments, Arts. XIII. and XXI.

Any town having less than three hundred ratable polls shall be represented thus: The whole number of ratable polls, at the last preceding decennial census of polls, shall be multiplied by ten, and the product divided by three hundred; and such town may elect one representative as many years within ten years, as three hundred is contained in the product aforesaid.

Towns having less than 300 ratable polls, how represented.

Any city or town having ratable polls enough to elect one or more representatives, with any number of polls beyond the necessary number, may be represented, as to that surplus number, by multiplying such surplus number by ten, and dividing the product by four hundred and fifty; and such city or town may elect one additional representative as many years, within the ten years, as four hundred and fifty is contained in the product aforesaid.

Fractions, how represented.

Towns may unite into representative districts.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting in each of said towns and districts, respectively, called for that purpose, and held previous to the first day of July, in the year in which the decennial census of polls shall be taken, form themselves into a representative district, to continue until the next decennial census of polls, for the election of a representative or representatives; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of ratable polls.

The governor and council to determine the number of representatives to which each town is entitled.

The governor and council shall ascertain and determine, within the months of July and August, in the year of our Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of representatives which each city, town and representative district is entitled to elect, and the number of years, within the period of ten years then next ensuing, that each city, town and representative district, may elect an additional representative; and where any town has not a sufficient number of polls to elect a representative each year, then, how many years within the ten years, such town may elect a representative; and the same shall be done once in ten years thereafter, by the governor and council, and the number of ratable polls in each decennial census of polls, shall determine the number of representatives which each city, town and representative district may elect as aforesaid; and when the number of representatives to be elected by each city, town or representative district is ascertained and determined as aforesaid, the governor shall cause the same to be published forthwith for the information of the people, and that number shall remain fixed and unalterable for the period of ten years.

New apportionment to be made once in every ten years.

Inconsistent provisions annulled.

All the provisions of the existing constitution inconsistent with the provisions herein contained, are hereby wholly annulled.

Census of inhabitants to be taken in 1840, and decennially thereafter, for basis of apportionment of senators and representatives.

ART. XIII. A census of the inhabitants of each city and town, on the first day of May, shall be taken and returned into the secretary's office, on or before the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter; which census shall determine the apportionment of senators and representatives for the term of ten years.

Senatorial districts declared permanent. See amendments, Art. XXII.

The several senatorial districts now existing, shall be permanent. The senate shall consist of forty members; and in the year one thousand eight hundred and forty, and every

tenth year thereafter, the governor and council shall assign the number of senators to be chosen in each district, according to the number of inhabitants in the same. But, in all cases, at least one senator shall be assigned to each district.

The members of the house of representatives shall be apportioned in the following manner: Every town or city containing twelve hundred inhabitants, may elect one representative; and two thousand four hundred inhabitants shall be the mean increasing number, which shall entitle it to an additional representative.

House of representatives, how apportioned. See amendments, Art. XXI.

Every town containing less than twelve hundred inhabitants shall be entitled to elect a representative as many times, within ten years, as the number one hundred and sixty is contained in the number of the inhabitants of said town. Such towns may also elect one representative for the year in which the valuation of estates within the Commonwealth, shall be settled.

Small towns, how represented.

Any two or more of the several towns may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns, respectively, called for that purpose, and held before the first day of August, in the year one thousand eight hundred and forty, and every tenth year thereafter, form themselves into a representative district, to continue for the term of ten years; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of inhabitants.

Towns may unite into representative districts.

The number of inhabitants which shall entitle a town to elect one representative, and the mean increasing number, which shall entitle a town or city to elect more than one, and also the number by which the population of towns, not entitled to a representative every year, is to be divided, shall be increased, respectively, by one-tenth of the numbers above mentioned, whenever the population of the Commonwealth shall have increased to seven hundred and seventy thousand, and for every additional increase of seventy thousand inhabitants, the same addition of one-tenth shall be made, respectively, to the said numbers above mentioned.

Basis of representation, and ratio of increase.

In the year of each decennial census, the governor and council shall, before the first day of September, apportion the number of representatives which each city, town and representative district is entitled to elect, and ascertain how many years, within ten years, any town may elect a representative, which is not entitled to elect one every year; and the governor shall cause the same to be published forthwith.

The governor and council to apportion the number of representatives of each town once in every ten years

Nine councillors shall be annually chosen from among the people at large, on the first Wednesday of January, or as

Councillors to be chosen from the people at large.

See amendments, Art. XVI. soon thereafter as may be, by the joint ballot of the senators and representatives, assembled in one room, who shall, as soon as may be, in like manner, fill up any vacancies that may happen in the council, by death, resignation or otherwise. No person shall be elected a councillor who has not been an inhabitant of this Commonwealth for the term of five years immediately preceding his election; and not more than one councillor shall be chosen from any one senatorial district in the Commonwealth.

Qualifications of councillors. Freehold as a qualification not required. No possession of a freehold, or of any other estate, shall be required as a qualification for holding a seat in either branch of the general court, or in the executive council.

Elections by the people to be by plurality of votes. ART. XIV. In all elections of civil officers by the people of this Commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

Time of annual election of governor and legislature. ART. XV. The meeting for the choice of governor, lieutenant-governor, senators and representatives, shall be held on the Tuesday next after the first Monday in November, annually; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November.

Eight councillors to be chosen by the people. ART. XVI. Eight councillors shall be annually chosen by the inhabitants of this Commonwealth, qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor. The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next State census shall have been taken, and at its first session after each decennial State census, thereafterwards, shall divide the Commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor: *provided, however,* that if, at any time, the constitution shall provide for the division of the Commonwealth into forty senatorial districts, then the legislature shall so arrange the councillor districts that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of councillor who has not been an inhabitant of the Commonwealth for the term of five years immediately preceding his election. The day and manner of the elec-

Legislature to district State. Qualification of councillors.

tion, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of governor. Whenever there shall be a failure to elect the full number of councillors, the vacancies shall be filled in the same manner as is required for filling vacancies in the senate; and vacancies occasioned by death, removal from the State, or otherwise, shall be filled in like manner, as soon as may be after such vacancies shall have happened. And that there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in case of the election of either of said officers, the choice shall be by them declared and published; but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

Day and manner of election, &c.

Vacancies, how filled.

Organization of the government.

ART. XVII. The secretary, treasurer and receiver-general, auditor, and attorney-general, shall be chosen annually, on the day in November prescribed for the choice of governor; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of one year from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer and receiver-general, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like man-

Election of secretary, treasurer, auditor and attorney-general by the people.

Vacancies, how filled.

ner be filled by choice from the people at large ; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this Commonwealth five years next preceding his election or appointment.

To qualify within 10 days, otherwise office to be deemed vacant.

Qualifications requisite.

School moneys not to be applied for sectarian schools.

ART. XVIII. All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the State for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended ; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own school.

Legislature to prescribe, for the election of sheriffs, registers of probate, &c., by the people.

ART. XIX. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, commissioners of insolvency, and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe.

Reading constitution in English and writing, a necessary qualification of voters. Proviso.

ART. XX. No person shall have the right to vote, or be eligible to office under the constitution of this Commonwealth, who shall not be able to read the constitution in the English language, and write his name: *provided, however*, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect.

Census of legal voters and of inhabitants, when taken, &c.

ART. XXI. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the Commonwealth, on or

before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid; residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of representatives for the periods between the taking of the census.

The house of representatives shall consist of two hundred and forty members, which shall be apportioned by the legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the Commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the Commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk,—or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the Commonwealth. The districts in each

House to consist of 240 members. Legislature to apportion, &c.

Qualifications of representatives.

county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the Commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law. Not less than one hundred members of the house of representatives shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

One hundred members a quorum.

Census, &c.

ART. XXII. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the Commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the Commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid:—*provided, however*, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. Each district shall elect one senator, who shall have been an inhabitant of this Commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the Commonwealth. Not less than sixteen senators shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

Senate to consist of 40 members. Senatorial districts, &c.

Proviso.

Qualifications of senators.

Sixteen members a quorum.

[NOTE.—The Constitution of Massachusetts was agreed upon by delegates of the people, in convention, begun and held at Cambridge, on the first day of September, 1779, and continued by adjournments to the second day of March, 1780, when the convention adjourned to meet on the first Wednesday of the ensuing June. In the meantime the Constitution was submitted to the people, to be adopted by them, provided two-thirds of the votes given should be in the affirmative. When the convention assembled, it was found that the Constitution had been adopted by the requisite number of votes, and the convention accordingly *Resolved*, “That the said Constitution or Frame of Government shall take place on the last Wednesday of October next; and not before, for any purpose, save only for that of making elections, agreeable to this resolution.” The first legislature assembled at Boston, on the twenty-fifth day of October, 1780.

The first nine Articles of Amendment were submitted, by delegates in convention assembled, November 15, 1820, to the people, and by them approved and adopted, April 9, 1821.

The tenth Article of Amendment was adopted by the legislatures of the political years 1829–30, and 1830–31, respectively, and was approved and ratified by the people, May 11, 1831.

The eleventh Article of Amendment was adopted by the legislatures of the political years 1832 and 1833, respectively, and was approved and ratified by the people, November 11, 1833.

The twelfth Article of Amendment was adopted by the legislatures of the political years 1835 and 1836, respectively, and was approved and ratified by the people, the fourteenth day of November, 1836.

The thirteenth Article of Amendment was adopted by the legislatures of the political years 1839 and 1840, respectively, and was approved and ratified by the people, the sixth day of April, 1840.

The fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth Articles of Amendment were adopted by the legislatures of the political years 1854 and 1855, respectively, and ratified by the people, the twenty-third day of May, 1855.

The twentieth, twenty-first and twenty-second Articles of Amendment were adopted by the legislatures of the political years 1856 and 1857, respectively, and ratified by the people on the first day of May, 1857.]

Commonwealth of Massachusetts.

SECRETARY'S OFFICE, BOSTON, }
August 31, 1857. }

I hereby certify that the printed Acts, Resolves, &c., contained in this volume, are true copies of the originals.

FRANCIS DEWITT,

Secretary of the Commonwealth.

INDEX TO THE CONSTITUTION.

A.

Adjutant-General, how appointed,	Page 831
Adjutants of Regiments, how appointed,	831
Affirmations. See Oaths and Affirmations.	
Agriculture, Arts, Commerce, &c., encouragement of,	838
Amendments to the Constitution, how made,	845
Apportionment of Councillors,	850
“ of Representatives,	825, 847, 848, 849, 853
“ of Senators,	822, 848, 854
Armies, Standing, should not be maintained without consent of Legisla- ture,	817
Arms, Right of People to keep and bear,	817
Articles of Amendment,	842
Attorney-General, how appointed,	830
“ how elected,	851
“ Qualifications of,	852
“ Vacancy in Office of, how filled,	851
Attorneys, District, how chosen,	852
Auditor, how chosen,	851
“ Qualifications of,	852
“ Vacancy in Office of, how filled,	851

B.

Bail and Sureties, Excessive, not to be demanded,	818
Bills and Resolves, to be laid before the Governor for revision,	820
“ “ to have the force of Law, unless returned within five days,	820
“ “ to be void when not returned, if Legislature adjourns within five days,	842
“ “ when vetoed, may be passed by two-thirds of each House,	820
“ Money, to originate in the House of Representatives,	826
Body Politic, how formed, and nature of,	813
Bribery or Corruption, conviction of, a disqualification for Office,	840

C.

Cambridge, the University at,	Page 836
Census of Inhabitants, when and how taken,	848, 853, 854
“ of Legal Voters, when and how taken,	852, 854
“ of Ratable Polls, when and how taken,	847
Cities, General Court empowered to charter,	843
Civil and Military Officers, duties of, to be prescribed by Legislature,	821
Commander-in-Chief. See Governor.	
Commerce, Manufactures, Arts, &c., encouragement of,	838
Commissary-General, when and how nominated, &c.,	844
“ to make Quarterly Returns,	831
Commissioners of Insolvency, how chosen,	852
Commission Officers, Tenure of Office of, to be expressed in Commission,	835
Commissions, how made, signed, countersigned, and sealed,	841
Congress, Delegates to, how chosen and commissioned,	855
“ “ may be recalled, and others commissioned,	836
“ what Offices may not be held by Members of,	845
Constitution, Amendments to, how made,	845
“ Revision of in 1795, provided for,	842
“ to be enrolled, deposited in Secretary's office, and printed with the Laws,	842
Coroners, how appointed,	830
Corruption. See Bribery.	
Council, and the manner of settling Elections by the Legislature,	833
“ may exercise powers of Executive, when, &c.,	834
“ Members of, to be sworn in presence of both Houses,	839
“ number of Members of, and how chosen,	833, 834, 849, 850
“ Objects of,	833
“ Quorum of,	833
“ Rank and Qualifications of Members of,	833, 850
“ Register of, subject to the call of either House,	833
“ Resolutions and Advice of, to be recorded,	833
“ Vacancies in, how filled,	851
Court of Common Pleas, Judges of, prohibited from holding other Offices,	845
“ Supreme Judicial, Judges of, Tenure of Office of, and Salary,	819, 832
Courts and Judicatories, may administer Oaths and Affirmations,	820
“ Clerks of, how chosen,	852
“ of Probate. See Probate.	
“ of Record and Judicatories, the General Court may establish,	820
Crimes and Offences, Prosecutions for, regulated,	816, 817

D.

Debate, Freedom of, in Legislature, affirmed,	818
Declaration of Rights,	814
Delegates to Congress,	835
“ “ how chosen,	835

Governor, may call Councillors together at his discretion,	Page 828
“ Qualifications of,	827, 844
“ Salary of,	832
“ shall sign such Bills and Resolves as he approves,	820
“ shall return such Bills and Resolves as he does not approve,	820
“ Style and Title of,	827
“ to be Commander-in-Chief of Military Forces of State,	829
“ to be sworn in presence of both Houses,	839
“ the holding of other Offices by, prohibited,	840, 844
“ when and how chosen,	827, 828, 843, 846, 850
“ and Council, may pardon Offences, after Conviction,	830
“ “ may prorogue the Legislature,	828, 829
“ “ shall examine Election Returns,	824, 851

II.

Habeas Corpus, Benefit of, secured,	841
“ “ not to be suspended more than twelve months,	841
Harvard College, Powers, Privileges, Grants, &c., confirmed to,	836
“ “ who shall be Overseers of,	837
“ “ Government of, may be altered by Legislature,	837
House of Representatives,	825
“ “ Members of, how apportioned and chosen,	825, 826, 846, 847, 848, 849, 850, 853, 854
“ “ Qualifications of Members of,	826, 850, 853
“ “ Qualifications of Voters for Members of,	826, 843, 852
“ “ to judge of the Qualifications, &c., of its own Members,	826
“ “ to choose its own Officers, establish its own Rules, &c.,	826
“ “ may punish Persons not Members, for disre- spect, &c.,	826
“ “ may try and determine all Cases involving its Rights and Privileges,	827
“ “ shall be the Grand Inquest to impeach,	826
“ “ all Money Bills to originate in,	826
“ “ not to adjourn more than two days at a time,	826
“ “ Quorum of,	826, 854
“ “ Members of, exempt from arrest on Mean Process,	827
“ “ Towns may be fined for neglecting to return Members to,	826
“ “ Travelling Expenses of Members of, how paid,	826
“ “ Oaths or Affirmations of Members of, how taken and subscribed to,	839

I.

Impeachment, Limitation of Sentence for,	Page 825
Impeachments, how made and tried,	825, 826
Incompatible Offices, enumeration of,	840, 844, 845
"Inhabitant," word defined,	823
Inhabitants, Census of, when taken,	848, 853, 854
Insolvency, Commissioners of, how chosen,	852
Instruction and Petition, Right of, affirmed,	818

J.

Judicatories and Courts of Record, Legislature may establish,	820
" " " may administer Oaths and Affirmations,	820
Judicial Department, not to exercise Legislative or Executive Powers,	819
" Officers, how appointed,	830
" " to hold Office during good behavior, except, &c.,	835
" " may be removed on Address of Legislature,	835
Judiciary Power,	835
Judges of Court of Common Pleas, what other Offices may not be held by,	844, 845
Judges of Probate, shall hold Courts on fixed days, &c.,	835
" " Appeals from, how heard and determined,	835
" " what other Offices may not be held by,	844, 845
Jury, Right of Trial by, secured,	817
Justices of the Peace, Tenure of Office of,	835
" " Commissions of, may be renewed,	835
" Supreme Judicial Court, Tenure of Office, and Salaries of,	819, 832, 835
" " " " what other Offices may not be held by,	840, 844, 845
" " " " Opinions of, may be required by Governor or Legislature,	835

L.

Law-Martial, Persons not in the Army, Navy, or Actual Service, not to be subjected to,	818
Laws, every Person to have remedy in, for injury to Person or Property,	816
" <i>Ex Post Facto</i> , declared unjust and inconsistent with Free Government,	818
" not repugnant to Constitution, Legislature may make,	821
" of Province, Colony, or State of Massachusetts Bay, not repugnant to Constitution, continued in force,	841
" Power of suspending, only in Legislature,	818
Legal Voters, Census of, when taken,	852, 854
Legislative Department, not to exercise Executive or Judicial Powers,	819
" Power,	819
Legislature. See General Court.	
Lieutenant-Governor,	832

Lieutenant-Governor, when and how chosen,	832, 843, 846, 850
“ “ Title of,	832
“ “ Qualifications of,	832
“ “ Powers and Duties of,	832, 833
“ “ to be sworn in presence of both Houses,	839
Literature, encouragement of,	837

M.

Magistrates and Officers, accountability of,	815
Major-Generals, how appointed and commissioned,	830
Martial-Law, Persons not in the Army, Navy, or Actual Service, not to be subjected to,	818
Meetings, Plantation, Provisions respecting,	823
“ Town, Selectmen to preside at,	823
Military Power, to be subordinate to Civil,	817
Militia Offices, Vacancies in, how filled,	830
“ Officers, how elected and commissioned,	830, 844
“ “ how removed,	830, 844
“ organization of, into Brigades, Regiments, and Companies, confirmed,	831
Money Bills, to originate in House of Representatives,	826
“ how drawn from the Treasury,	8g
“ value of, how computed,	840
Moneys, for the Support of Schools, how applied,	852
Moral Principles, necessity of the observance of, in a Free Government,	817

N.

Notaries Public, how chosen,	834
“ “ how appointed, Tenure of Office, &c.,	843

O.

Oaths and Affirmations, Courts and Judicatories may administer,	820
“ “ Forms of,	838, 839, 844
“ “ how and by whom taken and subscribed,	838, 839, 840, 844
Oaths and Subscriptions, Incompatibility of, and exclusion from, Offices, &c., &c.,	838
Oaths, variation of, in behalf of Quakers,	839, 844
Offences. See Crimes and Offences.	
Office, Right of People to secure Rotation in,	816
“ Equal Right of All to, affirmed,	816
“ no Person eligible to, who cannot read and write,	852
Office, Civil, Legislature may provide for the naming and settling of,	821
“ Civil and Military, duties of to be prescribed by Legislature,	821
“ “ “ holding under Government of Massachusetts Bay, continued in Office,	841
Officers and Magistrates, accountability of,	815

Officers, Militia, how elected and commissioned,	830, 844
“ “ how removed,	830, 844
Offices, Incompatible,	840, 844, 845
“ Militia, Vacancies in, how filled,	830
“ Plurality of, prohibited to Governor, Lieutenant-Governor, and Judges,	840, 844, 845

P.

Pardon, Power of, vested in Governor and Council,	830
People, Right of to keep and bear Arms,	817
Person and Property, Remedy for all Injuries to, should be found in the Laws,	816
Petition and Instruction, Right of, affirmed,	818
Plantations, Unincorporated, Tax-paying Inhabitants of may vote for Councillors and Senators,	823
Plurality of Votes, election of Civil Officers by,	850
Political Year, when to begin and end,	845
Polls, Ratable, Census of, when taken,	847
Power, Executive,	827
“ Judiciary,	835
“ Legislative,	819
Preamble,	813
Press, Liberty of, essential to Freedom,	817
Probate, Judges of, shall hold Courts on fixed days, &c.,	835
“ “ Appeals from, how heard and determined,	835
“ “ what other Offices may not be held by,	844, 845
“ Registers of, how appointed,	830
“ “ how elected,	852
Property, Private, not to be taken for Public Uses without Compensation,	816
“ Qualification, may be increased by Legislature,	841
“ “ partially abolished,	850
Prosecutions, for Crimes and Offences, regulated,	816
Public Boards, Returns of, how, when, and to whom made,	831
“ Officers, Right of People with reference to,	816
“ Services, the only Title to particular and exclusive Privileges,	815
“ Worship, the Right and Duty of,	814
“ “ Legislature may compel Provisions for,	814
Punishments, Cruel and Unusual, prohibited,	818

Q.

Quakers, variation of Oath in behalf of,	839, 844
Qualifications of Governor,	827, 844, 852
“ of Lieutenant-Governor,	832
“ of Councillors,	850, 852
“ of Senators,	824, 850, 852, 854
“ of Representatives,	826, 850, 852, 853
“ of Secretary, Treasurer, Auditor, and Attorney-General,	852

Qualifications of Voters,	822, 826, 843, 852
“ Moral, of Officers and Magistrates,	817
Qualification, Property, may be increased,	841
“ “ partial abolition of,	850
Quorum, of Council,	828, 833
“ of House,	826, 854
“ of Senate,	825, 854

R.

Ratable Polls, Census of, when taken,	847
“ “ Towns having less than 300, how represented,	847
“ “ Towns having less than 150, how represented,	825
Read and Write, Persons who cannot, not to vote or hold Office,	852
Register of Council, to be kept, subject to the call of either House,	833
Registers of Probate. See Probate.	
Religious Denominations, equal protection secured to all,	815, 847
“ Societies, Right of, to elect their own Pastors, &c.,	815, 847
“ “ Persons belonging to, to be held as Members, till they file Notice of Dissolution,	847
Representation, in Council, basis of,	850
“ in House,	825, 847, 848, 849, 853
“ in Senate,	822, 848, 854
Representatives. See House of Representatives.	
Returns, Quarterly, how and by whom to be made,	831
Returns of Votes, by whom made, examined, &c.,	823, 824, 828, 851
Revision of Constitution. See Constitution.	
Rights, Natural, declaration of, &c.,	814

S.

Salaries, of Judges of Supreme Court,	819, 832
Salary, of Governor,	832
Schools, Money raised and appropriated for, how to be applied,	852
“ Sectarian, appropriation of Money for, prohibited,	852
Search and Seizure, the Right of every Man to be secure from,	817
Secretary, Treasurer, Commissary, &c.,	834
Secretary of the Commonwealth, how chosen,	834, 851
“ “ Qualifications of,	852
“ “ Duties of,	834, 853
“ “ may appoint Deputies, &c.,	834
“ “ Vacancy in Office of, how filled,	843, 851
Selectmen, Duty of,	823
Self-government, Right of, asserted,	815
Senate,	822
“ Members of, number, and how chosen,	822, 843, 848, 854
“ “ Qualifications of,	824, 850, 852, 854
“ “ shall be sworn preliminary to trial of Impeachment,	825
“ “ exempt from arrest on Mean Process,	827

Senate, Quorum of,	825, 854
“ Vacancies in, how filled,	824
“ to be final judge of elections of its own Members,	824
“ not to adjourn more than two days,	825
“ shall choose its own Officers, and establish its own Rules,	825
“ shall try Impeachments,	825
“ may punish persons not Members, for disrespect, &c.,	826, 827
“ may try and determine all cases involving its own Rights and Privileges,	827
Senators, Apportionment of,	822, 848, 854
“ Oaths and Affirmations, how taken and subscribed by,	839
Senatorial Districts. See Districts.	
Services, Public, the only Title to particular Privileges,	815
Sheriffs, how appointed,	830
“ how elected,	852
Soldier, not to be quartered in any house without consent of owner,	818
Solicitor-General, how appointed,	830
Standing Armies, without consent of Legislature, prohibited,	817
Supreme Being, the Public Worship of, a Right and Duty, &c.,	814
“ Judicial Court, Tenure of Office and Salaries of Judges of,	819, 832
Sureties and Bail, excessive, not to be demanded,	818
Suspension of Laws, Power of, only in Legislature,	818

T.

Taxation, should be founded on consent,	816, 818
Taxes, Excises, &c., Legislature may impose,	821
Tax, State or County, payment of, one of the Qualifications of a Voter, 823, 843	
Tests, Religious, abolished,	844
Title, of Governor,	827
“ of Lieutenant-Governor,	832
Town Meetings, Selectmen to preside at,	823
Towns, having less than 300 Ratable Polls, how represented,	847
“ having less than 150 Ratable Polls, how represented,	825
“ may unite in Representative District,	848, 849
Travel, Expenses of, to and from the General Court, how paid,	826
Treason and Felony, Legislature not to convict of,	818
Treasurer and Receiver-General, how chosen,	834, 851
“ “ qualifications of,	852
“ “ eligibility to Office of, more than five years, denied,	834
“ “ Vacancy in Office of, how filled,	843, 851
Trial, by Jury, Right of, secured,	817

U.

University at Cambridge, &c.,	836
---	-----

V.

Vacancies in Council, how filled,	Page 851
“ in Militia Offices, how filled,	830
“ in Offices of Secretary, Treasurer, Auditor, and Attorney- General, how filled,	843, 851
“ in Senate, how filled,	824
Valuation of Estates, when taken,	821
Veto, Power of, conferred upon Governor,	820
Vote, no Person a right to, who cannot read and write,	852
Voters, Legal, Census of, when taken,	852, 854
“ qualifications of,	822, 826, 843, 852
Votes, all Civil Officers to be elected by a plurality of,	850
“ Returns of, by whom made, examined, &c.,	823, 824, 828, 851

W.

Worship, Public, the Right and Duty of all Men,	814
Writs, how made, issued, &c.,	841

Y.

Year, Political, when to begin and end,	845
---	-----

I N D E X

TO THE

ACTS, RESOLVES, ETC., CONTAINED IN THIS VOLUME.

A.

Abington Mutual Fire Insurance Company, to incorporate,	Page 123
Academy, Titicut, of Middleborough, to incorporate,	246
“ Westfield, to aid in the establishment of an Agricultural Department in,	83
“ “ to amend the Charter of,	472
Accounts against the Commonwealth, Resolves in relation to,	282
Accounts of Executors, Administrators and Guardians, in relation to, and the examination of persons suspected of Embezzlement, in certain cases,	444
Actions, certain, relating to the venue of,	36
“ Civil, parties in, enabled to be Witnesses,	108
“ “ and Proceedings, parties in, enabled to be Witnesses,	655
“ “ relating to return of Writs in, before Justices of the Peace and Police Courts,	48
Adams, authorizing the removal to, of the Office of Register of Deeds for the Northern District of Berkshire,	474
Adams Bank, to increase the Capital Stock of,	196
Adams, Police Court of, in addition to Act establishing,	639
Address of the Governor,	297, 705
Administrators, Guardians and Executors, relating to accounts of, and the examination of persons suspected of Embezzlement, in certain cases,	444
Adulterated Milk, to punish Fraud by sale of,	130
Affirmations and Oaths, County Commissioners authorized to administer,	28
African Methodist Episcopal Churches, Trustees of, concerning,	433
Agawam Bank, to increase the Capital Stock of,	543
“ Bridge Company, to incorporate,	198

Aged Females, Home for, and Children's Home, in Roxbury, to incorporate,	Page 155
Aged Women in Salem, Society for the relief of, to incorporate,	241
Agent of Charles River and Warren Bridges to lease a Wharf adjoining Warren Bridge,	243
Agents, Board of Education authorized to appoint,	665
" City and Town, concerning Purchase and Sale of Spirituous Liquors by,	638
" School, and Normal Schools, Resolve in addition to Resolves of 1855, in favor of,	694
Agricultural Branch Railroad, extending the time for the construction of,	157, 463
" Department in Westfield Academy, to aid in the establishment of,	83
" Societies which receive the bounty of the State, in addition to Act concerning,	105
" Society, Eastern Hampden, to incorporate,	88
" " Nantucket, to incorporate,	15
" " Worcester South, Resolve in favor of,	258
Agriculture, Board of, Resolves concerning the Annual Report of the Secretary of,	268
" Massachusetts School of, to incorporate,	152
Aiken, Lewis, Resolve on the Petition of,	269
Albany Street, in the City of Boston, in addition to Act to extend,	55
Alien Passengers and State Paupers, relating to the Board of Commissioners on,	230
Alley, John B., and Francis O. Watts, Executors of the Will of Sarah B. Foster, Resolve on Petition of,	680
Almshouse, State, at Bridgewater, Resolve in favor of,	292, 698
" " at Monson, Resolve relating to,	681
" " at Tewksbury, Resolve in favor of,	691
Almshouses, Overseers of the Poor authorized to remove Destitute and Neglected Children to,	503
" State, Resolve in favor of,	277
Amending the Constitution, relative to limiting the Sessions of the Legislature,	703
Amendments of the Constitution,	842
" " " Proposed, Resolves relating to,	666
" " " Resolve relating to,	699
American Hotel Company, in the North Village, in Adams, to incorporate,	82
" Lead Works, to change the name of,	5
" Print Works, to incorporate,	438
Amesbury Street Baptist Society, to change the name, and legalize the doings of,	237
Amherst and Belchertown Railroad, to extend the time for locating and constructing,	44
Animals, pasturing of, in Streets or Ways, relating to,	453
Annexation of part of Beverly to Danvers,	457

INDEX.

iii

Annexation of part of Boxford to Groveland,	Page 31
“ of part of Braintree to Quiney,	72
“ of parts of each of the Towns of Cambridge and Somerville to the other,	76
“ of Chelsea to Boston,	77
“ of part of Dorchester to Quiney, additional Act,	500
“ of part of Duxbury to Kingston,	411
“ of part of Groton to Pepperell,	510
“ of part of Stoneham to South Reading,	48
Annual Report of the Secretary of the Board of Agriculture, Resolves concerning,	268
“ Reports of Railroad Corporations, in addition to Acts relating to,	92
“ Returns of Railroads, concerning,	574
Appeals in Criminal Cases, in relation to,	71
Appleton, Nathaniel and others, Resolve on Petition of, relative to the Salem Charitable Marine Society,	276
Applications to the General Court, relating to,	609
“ “ “ “ Resolve to publish the Act relating to,	700
Appointment of Members of the Legislature to certain Offices, concerning,	529
Apponigansett River, Abner R. Tucker and others, to plant Oysters in,	478
Apportionment of Representatives to the several Counties,	775
Approval of Bills of Purchases for the State Prison, to provide for,	609
Aqueduct Company, Lebanon Springs, in aid of,	155
“ Corporation, Jamaica Pond, to incorporate,	481
Art Club, Boston, to incorporate,	597
Artificial Propagation of Fish, Resolve concerning,	277
Artisans' Insurance Company, to incorporate,	597
Asiatic Bank, to increase the Capital Stock of,	499
Assault upon the Honorable Charles Sumner, at Washington, Resolves concerning,	285
Assessment and Collection of Taxes, in relation to,	151
“ of Taxes in the City of Lynn in 1853 and 1854, in relation to,	82
“ “ in the Town of Stoughton for 1854, to legalize,	83
Assignment and Distribution of the Property of Insolvent Debtors, to repeal chapter 238, of the Acts of 1836, regulating,	91
Assistant-Attorney for the County of Suffolk, to establish the Office of,	35
Assistant-Clerk of the Superior Court of Suffolk County, to establish the Salary of,	468
“ “ of the Supreme Judicial Court in Suffolk County, estab- lishing the Office of,	20
Assistant-Messenger to the Governor and Council, Resolve in favor of the Widow of John V. Low, deceased,	260
Association, Bowdoin Literary, of Dorchester, to incorporate,	23
“ Chebacco Library, to incorporate,	81
“ Congregational Library, of Boston, to hold additional Real and Personal Estate,	71
“ Duston Monument, to incorporate,	19
“ Fall River Young Men's Christian, to incorporate,	473

Association, Gardner Library, to incorporate,	Page 54
“ Ladies’ Charitable, at Haverhill, to incorporate,	77
“ Liberty Hall, Directors of, to purchase additional Real Estate,	116
“ Lynn Library, in addition to Act incorporating,	125
“ Massachusetts State Teachers’, Resolve in favor of,	673
“ Mercantile Library, in addition to Act incorporating,	24
“ Mission Park, to incorporate,	401
“ South Berkshire Institute, to incorporate,	193
“ Worcester County Mechanics’, in addition to Act incorporating,	111
“ Worcester District Methodist Episcopal Church Camp-Meeting, Trustees of, incorporated,	61
“ Worcester District Methodist Episcopal Church Camp-Meeting, name changed to Sterling Camp-Meeting Association,	479
“ Young Men’s Library, of Worcester, in addition to Act incorporating,	26
Associations, Law Library, in further addition to Act relating to,	37, 107
“ Loan Fund, concerning,	434
Astor Library, Resolve in favor of,	259
Athenæum, Blackstone, to incorporate,	16
“ Dorchester, to incorporate,	418
“ Fall River, to incorporate,	60
“ Jamaica Plain, to incorporate,	53
Attachment and Execution, to exempt certain Articles from,	570
Attachments, Dissolution of, to amend chapter 66 of Acts of 1855, relative to,	598
“ relating to the Record of,	123
Attleborough, Congregational Society in the Second Precinct in, additional to Act incorporating,	70
“ Mutual Fire Insurance Company, and the Fairhaven Mutual Marine Insurance Company, concerning,	453
Attorney, Assistant, for the County of Suffolk, to establish the Office of,	35
“ General’s Office, Resolves concerning,	278
“ of the Middle District, in relation to the Salary of,	161
“ of the South-Eastern District, to fix the Salary of,	201
Attorneys, District, for the Northern, Eastern and Southern Districts, to fix the Salaries of,	559
Auctioneers, relating to,	569
Auditors, to authorize the appointment of, and defining their powers,	119
Avenue Corporation, Mount Washington, in addition to Act establishing,	500

B.

Back Bay, to confirm an Indenture concerning,	514
“ “ Resolve in relation to Lands in,	284
“ “ Resolves concerning,	688

INDEX.

v

Bail Bonds, respecting the manner of Sureties surrendering their Principals in, to amend the 49th chapter of the Revised Statutes,	Page 18
Baker, Levi, and others, Resolve on Petition of,	684
Bank, Adams, to increase the Capital Stock of,	196
“ Agawam, to increase the Capital Stock of,	543
“ Asiatic, to increase the Capital Stock of,	499
“ Boston Five Cents Savings, to hold Real Estate,	440
“ Brighton Market, to increase the Capital Stock of,	525
“ Cape Cod, in Harwich, to increase the Capital Stock of,	518
“ City, of Worcester, to increase the Capital Stock of,	621
“ Conway, to increase the Capital Stock of,	526
“ Dedham, to increase the Capital Stock of,	520
“ Franklin Savings, in Pawtucket, to incorporate,	431
“ Hampshire Manufacturers', to increase the Capital Stock of,	544
“ Haverhill, to increase the Capital Stock of,	502
“ Hide and Leather, to incorporate,	601
“ Hopkinton, to increase the Capital Stock of,	515
“ Housatonic, to increase the Capital Stock of,	540
“ John Hancock, to amend the Charter of	418
“ Lee, to increase the Capital Stock of,	547
“ Lynn Mechanics', to increase the Capital Stock of,	551
“ Malden, to increase the Capital Stock of,	499
“ Maverick, in East Boston, in addition to Act incorporating,	33
“ Mechanics', in New Bedford, to increase the Capital Stock of,	512
“ Miller's River, in Athol, to increase the Capital Stock of,	519
“ Millbury, to increase the Capital Stock of,	192
“ Mount Wollaston, in Quincy, to increase the Capital Stock of,	522
“ of Mutual Redemption, in addition to Act incorporating,	67, 535
“ Old Colony, in Plymouth, to increase the Capital Stock of,	523
“ Oxford, to increase the Capital Stock of,	525
“ Pittsfield, to increase the Capital Stock of,	552
“ Quincy Stone, to increase the Capital Stock of,	524
“ Shelburne Falls, to incorporate,	200
“ Taunton, to increase the Capital Stock of,	527
“ Union, in Haverhill, to increase the Capital Stock of,	504
“ Wamsutta, in Fall River, to incorporate,	191
“ Warren, to increase the Capital Stock of,	518
“ Woburn, to increase the Capital Stock of,	501
“ Wrentham, to increase the Capital Stock of,	529
Bank Bills, Worthless, in relation to,	568
Banks, regulating use of Proxies in,	595
Banns of Marriage, in addition to Act relating to,	425
Baptist Benevolent and Missionary Society, Evangelical, to incorporate,	503
“ Church, in Woburn, First, to incorporate,	446
“ Society, Amesbury Street, to change the name, and legalize the doings of,	237
“ “ in Lawrence, First, name of the Amesbury Street Baptist Society changed to,	237

Baptist Society, in Salem, Central, changing the name of the Second Baptist Society to, and the time of their Annual Meeting,	Page 14
“ “ in Salem, Second, changing the name, and the time of their Annual Meeting,	14
“ “ in Southbridge, First, Resolve on Petition of,	674
Barker's River in Pembroke, relating to Fish Ways at the several Dams on,	43
Barnstable, Probate Court in the County of, to establish Ternus of,	470
“ Fisheries on the South Shore and Bays, on the south side of the Town of, and District of Marshpee, to protect,	125
Barre and North Brookfield Railroad Company, to amend the Charter of,	498
“ “ “ “ to extend the time for the construction of,	16
Barrows, Lydia and another, Resolve on Petition of,	676
Barstow, W. C., B. C. Ward, E. S. Rand and C. C. Gilbert, to extend their Wharf,	22, 45
Bartlett, Sidney, Executor of the Will of Benjamin B. Mussey, Resolve on Petition of,	676
Bass River in Beverly, Bridge across, County Commissioners of Essex to lay out a Highway, and build,	148
Bastard Children, maintenance of, concerning Cases arising under the 49th chapter of the Revised Statutes,	646
Bates, Joshua, and Albert Bowker, to build and extend their Wharves,	46
Beach, Blaney's, in Swampscott, James A. Knowlton to drive Piles on,	458
Beaches in the Town of North Chelsea, to amend Act concerning,	447
“ in the Town of Swampscott, concerning,	127
Beaman Manufacturing Company authorized to increase their Capital Stock,	11
Belchertown, Resolve in favor of the Town of,	264
Belvidere Woolen Manufacturing Company, in addition to Act incorporating,	462
Benevolent and Missionary Society, Evangelical Baptist, to incorporate,	503
“ Society, Female, at South Danvers, to incorporate,	33
“ “ Independent, in Newburyport, to incorporate,	124
“ “ Ladies', of Newbury, to incorporate,	129
Benson, Jared and others, Resolves on Petition of,	261
Berkshire Mutual Fire Insurance Company, in addition to Act incorporating,	404
“ Northern District of, authorizing removal of Office of Register of Deeds, from Lanesborough to Adams,	474
“ Probate Courts in the County of, concerning,	405
Berlin, Town of, Resolve in favor of,	263
Beverly, Highway and Bridge across Bass River in, County Commissioners of Essex to lay out and build,	148
“ part of, annexed to Danvers,	457
Billiard Tables and Bowling Alleys, Act in relation to Gaming,	531
Billingsgate Island, Jurisdiction over certain Lands on, ceded to the United States,	472

INDEX.

vii

Bills of Purchases for the State Prison, to provide for the approval of,	Page 609
“ Worthless Bank, in relation to,	568
Birthday of Washington, Resolves relating to the Celebration of,	258, 658
Blackstone Athenæum, to incorporate,	16
“ Police Court in, to abolish,	42
Blake, Edward, Resolve on Petition of, to sell Real Estate,	266
Blaney’s Beach, in Swampscott, James A. Knowlton to drive Piles on,	458
Board of Agriculture, Annual Report of the Secretary of, Resolves concerning,	268
“ of Directors for the Public Institutions for the City of Boston and County of Suffolk, to establish,	426
“ of Education to appoint Agents,	665
“ of Education, Resolve concerning,	682
“ of Insurance Commissioners, Resolve in favor of,	700
“ of Trade, Boston, Resolve in favor of,	280
Boat Meadow River, Bridge across, Selectmen of Eastham to build,	147
Boice, Patrick, Resolve on Petition of, to sell Real Estate,	275
Bond to be given by Executors who are Residuary Legatees, in relation to form of,	456
Bonds, Bail, respecting the manner of Sureties surrendering their Principals in, amending the 49th chapter of the Revised Statutes,	18
“ of Registers of Probate, to amend the 21st section of the 83d chapter of the Revised Statutes, relative to,	405
Boston Art Club, to incorporate,	597
“ Barre and Gardner Railroad Company, concerning,	60, 459
“ Board of Trade, Resolve in favor of,	280
“ and Cape Cod Marine Telegraph Company, to incorporate,	63
“ and Chelsea Railroad Company, concerning,	73, 441
“ Chelsea reannexed to,	77
“ Clearing House, in relation to,	48
“ Drains and Sewers in the City of, concerning,	559
“ Faucet Company, name of American Lead Works changed to,	5
“ Five Cents Savings Bank, to hold Real Estate,	440
“ Harbor of, in addition to Act concerning Lines in,	235
“ “ Mystic River and Dorchester Bay, concerning,	226
“ “ to protect,	237
“ “ Scientific Survey of, Resolves relative to,	264
“ Inland Mutual Insurance Company, to incorporate,	114
“ Insane persons in the City of, concerning,	647
“ Kansas Company, to incorporate,	405
“ and Kennebec Steamboat Company, to incorporate,	50
“ and Lowell, the Fitchburg and the Grand Junction Railroads, Bridge at the intersection of,	232
“ and Lowell Railroad, additional Branch Track in the City of, Lowell, authorized,	68
“ and Lowell Railroad Company, amending Act passed May 21, 1855, authorizing alteration in the construction and location of a Bridge,	23

Boston and Lowell Railroad Company, extending time of construction of Branch Railroad in Boston, by,	Page 93
“ and Lowell Railroad Corporation, and certain Railroad Companies connected therewith, concerning,	478
“ and Lowell Railroad Corporation, extending time for the construction of a Branch Track in Lowell, by,	641
“ and Lowell and Salem and Lowell Railroad Companies, concerning,	91
“ Lunatic Hospital, concerning,	627
“ and Maine Railroad, and the Danvers Railroad Company, concerning,	611
“ and New Orleans Steamship Company, to incorporate,	146
“ and New York Central Railroad, Bridge across, in Dorchester, County Commissioners of Norfolk to construct,	39
“ and New York Central Railroad Company, concerning,	15, 425
“ and New York Central Railroad, extending the time for the construction of,	18
“ and New York Steamship Company, to incorporate,	505
“ and North Cambridge Omnibus Company, to incorporate,	113
“ Public Institutions for the City of, and the County of Suffolk, to establish a Board of Directors for,	426
“ Public Library in, relating to,	404
“ and Roxbury Mill Corporation, concerning,	106
“ Submarine and Wrecking Company, to change its name and increase its Capital Stock,	422
“ Taxes in the City of, to repeal Act changing the time of assessing,	623
“ and Worcester Railroad Corporation, to change the location of a portion of their road,	485
Boundary Line between Cambridge and Somerville, altering, and annexing portions of each to the other,	76
“ “ between Chilmark and the Indians of Gay Head, to establish and confirm,	120
“ “ between Danvers and South Danvers, determining,	151
“ “ between East Bridgewater and Halifax, to establish,	438
“ “ between Lynnfield and North Reading, to change,	572
“ “ new, between Salem and South Danvers, establishing,	74
“ “ between South Scituate and Hanover, determining,	509
“ “ between South Scituate and Hanover, Resolves in relation to,	286
“ “ between Uxbridge and Northbridge, changing,	80
Bounty, Cod Fishing, Resolves concerning the proposed repeal of,	657
“ of State, Agricultural Societies which receive, in addition to Act concerning,	105
Bowditch, J. Ingersoll, Executor of Ephraim Peabody, to sell certain Real Estate of the Testator,	659
Bowdoin Literary Association of Dorchester, to incorporate,	23
“ Mutual Fire Insurance Company, to incorporate,	220
Bowker, Albert, and Joshua Bates, to build and extend their Wharves,	46

Bowling Alleys and Billiard Tables, Act in relation to Gaming,	Page 531
Boxford, Ipswich River Fisheries in the Town of, to protect,	28
“ part of the Town of, annexed to Groveland,	31
“ Town of, Resolve in favor of,	276
Boys, State Reform School for, and State Industrial School for Girls, relating to support of certain Inmates of,	84
“ “ “ “ for, at Westborough, Resolve concerning,	291
“ “ “ “ for, at Westborough, Resolve in favor of,	677
Braintree, part of the Town of, annexed to Quincy,	72
Braintree and Weymouth Turnpike and the Neponset Bridge, concerning,	556
Branch Railroad, Agricultural, extending the time for the construction of,	157, 463
“ “ into Boston, by the Boston and Lowell Railroad Corporation, to extend the time of construction,	93
“ “ Company, Dorchester and Milton, concerning,	508
“ “ East Walpole, to extend the time of construction,	601
“ “ Newburyport Railroad Company to construct, in addition to Act authorizing,	45
“ “ Plympton, to change the name of,	17
Branch Track, additional, of the Boston and Lowell Railroad Company, in the City of Lowell, authorized,	68
“ “ in Lowell, extending time for the construction of, by the Boston and Lowell Railroad Company,	641
Branches to be taught in the Public Schools, Act concerning, and for other purposes,	542
Breakwater at Cape May, Resolves concerning,	270
Breed, Charles S. and others, Resolve on Petition of,	661
Breitt, Benjamin H. and Barnabas S. Young, to build a Wharf,	112
Bridge across Bass River in Beverly, County Commissioners of Essex to lay out a Highway, and build,	148
“ across Boat River Meadow, Selectmen of Eastham to build,	147
“ at the intersection of the Boston and Lowell, the Fitchburg and the Grand Junction Railroads in Somerville, relative to,	232
“ Boston and Lowell Railroad, to amend Act passed May 21, 1855, authorizing alteration of the location and construction of,	23
“ across the Boston and New York Central Railroad, in Dorchester, County Commissioners of Norfolk authorized to construct,	39
“ Canal, and West Boston, authorizing the Hancock Free Bridge Corporation to surrender to the City of Cambridge,	606
“ Charles River and the Warren, Agent to lease a Wharf adjoining Warren Bridge,	243
“ Charles River and the Warren, concerning,	205
“ Company, Agawam, to incorporate,	198
“ Corporation, Hancock Free, authorized to surrender the West Boston and Canal Bridges to the City of Cambridge,	606
“ East Boston Free, in addition to Act incorporating,	56
“ over East Harbor, Towns of Truro and Provincetown to construct,	220
“ Essex, to provide for the maintenance of,	615
“ Essex Merrimack, concerning,	206

Bridge, Holyoke and Willimansett, to incorporate the Proprietors of, . . .	Page 532
“ Lawrence, in addition to Act incorporating the Proprietors of, . . .	419
“ over Malden River, County Commissioners of Middlesex to lay out a Highway, and construct,	42
“ over Merrimack River between Dracut and Chelmsford, to repeal part of an Act in addition to Act incorporating certain persons for the purpose of building,	542
“ over Mystic River, in Medford, County Commissioners of Middlesex to lay out a Highway and construct, additional Act,	461
“ Neponset, and Braintree and Weymouth Turnpike, concerning,	556
“ Pitcher's, in Huntington, relating to,	471
“ Selectmen of Wellfleet to build,	114
“ over Skunk Creek, in Somerset, County Commissioners of Bristol to lay out a Highway and construct,	150
“ Sunderland, in addition to Act incorporating the Proprietors of,	462
“ Warren, to discontinue a Crossing, at grade, upon, and for other purposes,	475
“ Warren, relating to,	462
“ Warren and the Charles River, Agent to lease a Wharf adjoining Warren Bridge,	243
“ Warren and the Charles River, concerning,	205
“ West Boston, and Canal, authorizing the Hancock Free Bridge Corporation to surrender to the City of Cambridge,	606
“ over the Wewantitt River, County Commissioners of Plymouth, to lay out a Highway and construct,	90
Bridgewater, State Almshouse at, Resolve in favor of,	292, 698
“ State Normal School-house at, concerning,	280
“ Trinity Church in, to incorporate the Trustees of the Funds of,	128
Brigham, Charles, Resolves on Petition of,	269, 672
Brimfield Free Grammar School, Trustees of, to change the corporate name to the Hitchcock Free Grammar School,	231
Brighton Market Bank, in Brighton, to increase the Capital Stock of,	525
Bristol, County Commissioners of, to borrow Money,	611
“ “ “ to borrow Money, either to repair or build a House of Correction,	224
“ “ “ to lay out a Highway and construct a Bridge over Skunk Creek, in Somerset,	150
Bristol County, Probate Court, changing the time of holding a Term of,	195
“ “ “ “ establishing Terms of,	506
Broadway Railroad Company, in addition to Act incorporating,	192
“ “ “ concerning,	549
Brookline Hotel Company, to incorporate,	200
“ Railroad Company, to incorporate,	648
Brooks, Hiram, to extend his Wharf,	481
Bruen, George H., Resolve on Petition of,	679
Brush Hill Turnpike Corporation, concerning,	486

INDEX.

xi

Buildings, Public, School-houses, &c., concerning,	Page 556
Burial Ground in Natick, Resolve authorizing the removal of the Remains of the Dead from,	675
Burial Grounds of the Second Parish, in West Newbury, authorizing the disposal of,	43
Burnham, Parker, Joseph B. and Elias, authorized to extend their Marine Railway,	31
Burying Ground in the Town of West Roxbury, in relation to,	66
Butters, Francis and others, to build a Wharf,	467
Buzzard's Bay, Act for the preservation of Fish within the Towns of Sandwich and Wareham,	102

C.

Cabinet, State, Resolve concerning,	697
Caldwell and Tewksbury, Resolve on Petition of,	276
Caleb's Pond Company, to incorporate,	530
Cambridge, City of, in further addition to Act establishing,	58, 447
" " Hancock Free Bridge Corporation authorized to sur- render the West Boston and Canal Bridges to,	606
Cambridge and Somerville, altering Boundary Line between, and annex- ing portions of each to the other,	76
" Water Works, concerning,	221
Camp-Meeting Association, Worcester District Methodist Episcopal Church, Trustees of, incorporated,	61
" " Worcester District Methodist Episcopal Church, to change the name to Ster- ling Camp-Meeting Association,	479
Canal and West Boston Bridges, authorizing the Hancock Free Bridge Corporation to surrender, to the City of Cambridge,	606
Cape Cod Bank, in Harwich, to increase the Capital Stock of,	518
" Harbor, Resolve concerning the preservation of,	694
Cape May, Breakwater at, Resolves concerning,	270
Capen, Nahum, Resolve in relation to the Estate of,	271
Carey, Augustus C., to build a Wharf,	63
Carriers, Common, in relation to,	571
Cartway, Silas Hatch and others to construct, in the Town of Falmouth,	444
Catalogue of the Papers and Index to the Journals of the House of Representatives, Resolve to complete,	663
Catholic Cemetery in Dorchester, in addition to Act incorporating the Proprietors of,	569
Cattle, relative to Pasturing of, or other Animals, in Streets or Ways,	453
Celebration of the Birthday of Washington, Resolves relating to,	658
Cemetery, Catholic, in Dorchester, in addition to Act incorporating the Proprietors of,	569
" Oak Grove, Proprietors of, to incorporate,	85
" Public, of the City of Roxbury, relating to,	195
" Rural, in Worcester, in addition to Act incorporating the Proprietors of,	32

Census, Decennial, and Statistical Information, in addition to the several Acts to secure,	Page 26
“ of Legal Voters and Inhabitants of the Commonwealth, Act for taking,	439
Central Baptist Society in Salem, name of Second Baptist Society changed, and also the time of their Annual Meeting,	14
Chace, James S., to plant Oysters in Taunton Great River, in addition to Act authorizing,	38
Chandler, B. B., Resolve in favor of,	693
Change of Names,	249, 787
Chaplain of the House of Representatives, Resolve for the pay of,	697
Chaplains of the Legislature, Resolve in behalf of,	678, 785
Chappaquiddic and Christiantown Indians, Resolve in aid of,	675
“ Indians and others, Resolve on Petition of the Guardian of,	265
Charitable Association at Haverhill, Ladies', to incorporate,	77
Charitable, Educational and Religious Purposes, Corporations for, relating to the organization of,	126
“ Educational and Religious Purposes, organization of Corporations for, to amend chapter 215 of the Laws of 1856 relating to,	436
“ Marine Society, Salem, Resolve on Petition of Nathaniel Appleton and others, relative to,	276
“ Society, General, of Newburyport, to incorporate,	204
Charles River Navigation Company, to incorporate,	437
“ “ Railroad and the New York and Boston Railroad Companies, confirming the union and extending the time for the location and construction of,	153
“ “ and the Warren Bridges, Agent to lease a Wharf adjoining Warren Bridge,	243
“ “ and the Warren Bridges, concerning,	205
Charlestown Water Works, concerning,	633
Charter of the Barre and North Brookfield Railroad Company, to amend,	498
“ of the City of Lowell, to amend,	121
“ of the John Hancock Bank, of Springfield, to amend,	418
“ of the Railroad Mutual Fire Insurance Company, to accept the surrender of,	29
“ of the Westfield Academy, to amend,	472
Cheap Postage and the Franking Privilege, Resolves concerning,	288
Chebacco Library Association, to incorporate,	81
Chelmsford and Dracut, Bridge over Merrimack River between, to repeal part of an Act in addition to Act incorporating certain persons for the purpose of building,	542
Chelsea, City of, established,	406
Chelsea reannexed to Boston,	77
Chemical Manufacturing Company, United States, authorized to change their name and location,	38
Chicopee, Police Court in Town of, in addition to Act establishing,	8

Children, Bastard, maintenance of, concerning Cases arising under the 49th chapter of the Revised Statutes,	Page 616
“ Destitute and Neglected, Overseers of the Poor authorized to remove, to Almshouses	503
“ Idiotic, Resolve concerning,	702
“ Minor, whose Parents are living separate, respecting the custody of,	14
“ of Non-Resident Parents, to attend Public Schools, defining the rights of,	480
“ under Guardianship, to attend the Public Schools, in relation to the rights of,	92
Children’s Home and Home for Aged Females, in Roxbury, to incorporate,	155
Chilmark, Resolve in favor of the Town of,	692
“ Town of, and the Indians of Gay Head, to establish and confirm the Boundary Line between,	120
Christian Association, Fall River Young Men’s, to incorporate,	473
Christiantown and Chapequiddie Indians, Resolve in aid of,	675
Church, First Baptist, in Woburn, to incorporate,	446
Church and Society in Danvers, Maple Street, name of Third Orthodox Congregational Society changed to,	467
“ and Society in Marion, Congregational, name of the Fourth Congregational Precinct in Rochester, changed to,	46
“ Trinity, in Bridgewater, to incorporate the Trustees of the Funds of,	128
“ Wesleyan, in Duxbury, to incorporate the Trustees of,	480
Churches, African Methodist Episcopal, concerning Trustees of,	433
Cincinnati, Society of, Massachusetts, Resolve on the Petition of,	263
Cities, relating to removal of Snow and Ice from Sidewalks of,	412
“ and Towns authorized to set out Shade Trees,	471
“ “ to repeal Act incorporating, into Mutual Fire Insurance Companies, at their election,	502
City Bank, of Worcester, to increase the Capital Stock of,	621
“ of Chelsea, established,	406
“ of Boston, Town of Chelsea reannexed to,	77
“ of Cambridge and Town of Somerville, altering Boundary Line between, and annexing portions of each to the other,	76
“ Fire Insurance Company, name of the Cochituate Fire Insurance Company of Boston, changed to,	4
“ and Harbor of New Bedford, in addition to Act ceding Jurisdiction over certain Lands and Shoals in, to the United States,	473
“ Hotel in Worcester, in addition to Act incorporating Proprietors of,	102
“ Mission Society, Eliot, of Roxbury, to incorporate,	81
“ of New Bedford and Harbor, Jurisdiction over certain Lands and Shoals in, ceded to the United States,	51
“ Salem and Town of South Danvers, new Boundary Line between established,	74
“ and Town Agents, concerning Purchase and Sale of Spirituous Liquors by,	638

City or Town Records, authorizing Transcripts of,	Page 453
Civil Actions, to enable parties in, to be Witnesses,	108
" relating to return of Writs in, before Justices of the Peace and Police Courts,	48
" and Proceedings, Parties in, enabled to be Witnesses,	655
Civil Officers, Election of, concerning,	88
" Election of, in addition to Act concerning,	527
Claim against the General Government, Massachusetts, Resolves con- cerning,	681
Clark, Enos, Jr., Treasurer to release and quitclaim certain lands in Northampton to,	274
Clearing House, Boston, in relation to,	48
Clerk, Assistant, of the Superior Court of Suffolk County, to establish the Salary of,	468
" Assistant, of the Supreme Judicial Court, in Suffolk County, establishing the Office of,	20
" of the Courts for the County of Hampden, establishing the Salary of,	620
" Hire, extra, Resolve relating to,	294
" of the House of Representatives, late Acting, Resolve in favor of,	661
Clerks of County Commissioners, concerning,	397
" of Courts and other County Officers, concerning the Election of,	98
" Door-keepers and Messengers of the Legislature, Resolve for pay of,	785
Clinton Steam-Power Company, to incorporate,	17
Club, Boston Art, to incorporate,	597
Coal Company, Massachusetts Peat, to incorporate,	501
Cochituate Fire Insurance Company of Boston, to change the name of,	4
Cod Fishing Bounty, Resolves concerning the proposed repeal of,	657
Collection and Assessment of Taxes, relating to,	154
College, New England Female Medical, name of the Female Medical Education Society changed to, and the same reorganized,	115
Colony Records of New Plymouth and Massachusetts, in addition to Resolve concerning,	700
" " of New Plymouth and Massachusetts, Resolves con- cerning,	701
Commissioners on Alien Passengers and State Paupers, relating to the Board of,	230
" for the Consolidation of the General Statutes, Resolve to pay,	684
" County, authorized to administer Oaths and Affirmations,	28
" of Bristol, to borrow Money,	611
" of Bristol to borrow Money either to repair or build a House of Correction,	224
" of Bristol to lay out a Highway and construct a Bridge over Skunk Creek, in Somerset,	150
" Clerks of, concerning,	397
" of Dukes County, to borrow Money,	527

INDEX.

XV

Commissioners, County, of Essex to lay out and construct a Highway in the Town of Manchester,	Page 119
“ “ of Essex to lay out a Highway and cause a Bridge to be built across Bass River in Beverly,	148
“ “ of Middlesex, to change the place of holding the September Meeting of,	427
“ “ of Middlesex to lay out a Highway and construct a Bridge over Malden River,	42
“ “ of Middlesex to lay out a Highway and construct a Bridge over Mystic River in Medford, additional Act,	461
“ “ of Norfolk to construct a Bridge across the Boston and New York Central Railroad, in Dorchester,	39
“ “ of Norfolk and others to lay out Ways across Muddy River,	463
“ “ of Plymouth to lay out a Highway and construct a Bridge over Weweantitt River,	90
“ “ powers of, in laying out Ways across Railroads, relating to,	633
“ “ of Worcester, to borrow Money,	444
“ of Deeds in Foreign Countries, Governor authorized to appoint,	188
“ Insurance, Resolve in favor of the Board of,	700
“ Insurance, Resolve to provide for the expenses of,	292
“ Resolves concerning,	698
“ on the State House, Resolve in favor of,	692
“ of the State Reform School for Girls, Resolve in favor of John H. Wilkins, H. B. Rogers, and Francis B. Fay,	678
Committees, School, concerning Vacancies in,	51, 614
“ “ providing for Election of,	619
Common Carriers, in relation to,	571
“ Schools, relating to,	528
“ Pleas, Court of, for the County of Middlesex, relating to,	96
“ “ “ for the County of Worcester, to establish additional Terms of,	236
“ “ “ and the Superior Court of the County of Suffolk, concerning,	245
Commonwealth, Accounts against, Resolves in relation to,	282
“ to divide, into Districts for the choice of Councillors,	243
“ to divide, into Forty Districts for the choice of Senators, in relation to Lands mortgaged to,	776
“ Printing for, Resolve concerning,	35
“ provision made for the Unfunded Debt of,	294
“	151
Compulsory Pilotage, certain classes of Vessels exempted from,	555
Congregational Church and Society in Marion, name of the Fourth Congregational Precinct in Rochester changed to,	46
“ Library Association of Boston, to hold additional Real and Personal Estate,	71

Congregational Parish in West Cambridge, First, to enclose their Land,	Page 107
“ Precinct in Rochester, Fourth, Act to change the name, and for other purposes,	46
“ Society, in Danvers, Third, Orthodox, name changed to Maple Street Church and Society,	467
“ Society in the Second Precinct in Attleborough, addi- tional to Act incorporating,	70
“ Society of Winchester, First, name of South Congrega- tional Society of Woburn, changed to,	7
“ Society of Woburn, South, name changed, and author- ized to hold property,	7
Congress, Election of Representatives in, concerning,	145
Connecticut, certain Resolutions of the Legislature of, Resolves in rela- tion to,	292
Connecticut River Railroad, to extend and unite the Hampshire and Hampden Railroad with,	573
Consolidation of the General Statutes, Resolve to pay Commissioners for,	684
Constable of the Town of Gloucester, Resolve in favor of George Lane,	272
Constitution and Amendments,	337, 813
“ Amendments of, Resolve relating to,	699
“ Proposed Amendments of, Resolves relating to,	666
“ Resolve to amend, relative to limiting the Sessions of the Legislature,	703
Contingent Expenses of the Council, Legislature and Offices in the State House, Resolves providing for,	294, 664
Convention of 1788, Massachusetts, Resolve relating to,	259
“ “ “ additional Resolve relating to,	264
Convicts, Female, in addition to Act relating to,	21
“ Insane, in addition to Act for removal of, from the State Prison,	75
Conway Bank, to increase the Capital Stock of,	526
Cook, Samuel, Resolve in favor of,	673
Cordis, Francis T., of Longmeadow, and others, Resolve on Petition of,	682
Corporations for Educational, Charitable and Religious purposes, Organi- zation of, to amend chapter 215 of the Laws of 1856, relating to,	436
“ for Educational, Charitable and Religious purposes, relat- ing to Organization of,	126
“ Officers of, and other persons, to punish Frauds in,	65
“ Organization of, limiting the time for,	194
Council, to arrange the Senatorial Districts into Eight Districts for the choice of,	780
“ Legislature and its Officers, Resolves for the pay of,	687
“ Legislature and Offices in the State House, Resolves providing for the Contingent Expenses of,	294, 664
“ Senate and House of Representatives, Resolves providing for the pay of,	289
Councillors, to divide the Commonwealth into Districts for the choice of,	243
Counties, Apportionment of Representatives to,	775
“ Resolve granting Taxes for the several,	269, 661

County Commissioners authorized to administer Oaths and Affirmations,	Page 28
“ “ of Bristol, to borrow Money,	611
“ “ of Bristol to borrow Money either to repair or build a House of Correction,	224
“ “ of Bristol to lay out a Highway and construct a Bridge over Skunk Creek, in Somerset,	150
“ “ Clerks of, concerning,	397
“ “ of Dukes County, to borrow Money,	527
“ “ of Essex to lay out and construct a Highway in the Town of Manchester,	119
“ “ of Essex to lay out a Highway and cause a Bridge to be built across Bass River, in Beverly,	148
“ “ of Middlesex to lay out a Highway and construct a Bridge over Malden River,	42
“ “ of Middlesex, to lay out a Highway and construct a Bridge over Mystic River in Medford, additional Act,	461
“ “ of Middlesex, to change the place of holding the September Meeting of,	427
“ “ of Norfolk to construct a Bridge across the Bos- ton and New York Central Railroad in Dorchester,	39
“ “ of Norfolk and others, to lay out Ways across Muddy River,	463
“ “ of Plymouth to lay out a Highway and con- struct a Bridge over Wewantitt River,	90
“ “ powers of, in laying out Ways across Railroads, relating to,	633
“ “ of Worcester, to borrow Money,	444
“ Officers, Clerks of Courts, concerning the Election of,	98
Coup Oil Company, name of the United States Chemical Manufactur- ing Company changed to,	38
Court of Common Pleas for the County of Middlesex, relating to,	96
“ “ “ for the County of Worcester, to establish ad- ditional Terms of,	236
“ “ “ and the Superior Court of the County of Suf- folk, concerning,	245
“ General, Applications to, Resolve to publish the Act concerning,	700
“ “ Door-keepers, Messengers and Pages, Resolve relating to the compensation of,	293
“ “ relating to Applications to,	609
“ “ relating to compensation of the Door-keepers, Messen- gers and Pages,	681
“ Police, of Adams, in addition to Act establishing,	639
“ “ of Blackstone, to abolish,	42
“ “ of Chicopee, in addition to Act establishing,	8
“ “ in Framingham, to establish,	468
“ “ of Lowell, concerning,	614

Court, Police, of Milford, concerning,	Page 612
“ “ of Milford, in addition to Act establishing,	193
“ “ of Pittsfield, in addition to Act establishing,	4
“ “ of Springfield, for the better establishment of,	422
“ “ of Worcester, concerning,	98, 404
“ Probate, of the County of Barnstable, to establish Terms of,	470
“ Probate in the County of Bristol, changing the time of holding a Term of,	195
“ “ of the County of Bristol, to establish Terms of,	506
“ “ of the County of Middlesex, to establish the Terms of,	451
“ “ at Groton, changing the time of holding,	197
“ “ in Middleborough, in the County of Plymouth, time of holding changed,	64
“ “ in North Andover, in the County of Essex, establishing,	3
“ “ in North Bridgewater, in the County of Plymouth, es- tablished, and time of holding Probate Court at Mid- dleborough, changed,	64
“ Superior, of the County of Suffolk and the Court of Common Pleas, concerning,	245
“ “ of Suffolk County, Salary of Assistant-Clerk estab- lished,	468
“ Supreme Judicial, in addition to the several Acts giving Jurisdic- tion in Equity to,	548
“ “ “ Assistant-Clerk of, in Suffolk County, estab- lishing the Office of,	20
“ “ “ relating to the Jurisdiction of,	443
“ “ “ Salaries of the Justices of established,	7
“ Trials by, respecting,	615
Courts, Clerks of, and other County Officers, concerning the Election of, of this Commonwealth, to secure uniformity of Fees in,	98 160
“ for the County of Hampden, Salary of Clerk established,	620
“ Criminal, in the County of Worcester, concerning,	477
“ of Insolvency, establishing Salaries of the Judges and Registers of, Police, concerning,	621 434
“ “ concerning the Jurisdiction of,	505
“ “ and Justices of the Peace, relating to Return of Writs in Civil Actions before,	48
“ Probate, in the County of Berkshire, concerning,	405
“ “ in the County of Dukes County, in addition to Act concerning,	194
“ “ in the County of Worcester, relating to,	91
“ “ in relation to certain Proceedings in,	122
Criminal Cases, Appeals in, relative to,	71
“ “ Fines and Forfeitures in, regulating payment of,	466
“ Courts in the County of Worcester, concerning,	477
Crossing, at grade, upon the Warren Bridge, to discontinue,	475
Crossings, in relation to,	547
“ Railroad, for the better protection of the Public at,	159

INDEX.

xix

Crowell, Zeno, to build a Wharf,	Page 44
Crowley, Daniel, authorized to extend his Wharf,	28
Curtis, John, Heirs of the late, to extend their Wharf in Boston,	640
Cushing, Edward J., Resolve on Petition of,	279
Cutting Machine Manufacturing Company, in addition to Act incorporating,	108

D.

Dams on Barker's River, in Pembroke, relating to Fishways at,	43
" Mill and Reservoir, in addition to Act relating to,	509
" and Reservoirs, concerning wilful and malicious injuries to,	507
Danvers, part of Beverly annexed to,	457
" Mutual Fire Insurance Company, to continue in force Act incorporating, and to change the name to the South Danvers Mutual Fire Insurance Company,	22
" Railroad Company and the Boston and Maine Railroad, concerning,	611
" and South Danvers, determining the boundary line between,	151
" Third Orthodox Congregational Society, name changed to Maple Street Church and Society,	167
Davis, Lucy and George P., Executors of the Will of Samuel Davis, authorized to sell Real Estate of the Testator,	671
Days, certain, concerning the observance of,	59
Dead, authorizing the removal of, from a Burial Ground in Natick,	675
Deadly Poisons, Sale of, relating to,	627
Death of Elisha Kent Kane, Resolves in relation to,	659
" Sentence of, to repeal certain Acts concerning persons under,	427
Debt, Imprisonment for, and the punishment of Fraudulent Debtors, to amend and consolidate the several Acts concerning,	489
" Public, relating to Extinguishment of,	534
" Unfunded, of the Commonwealth, provision made for,	151
Debtor, Insolvent, a new promise in writing required of, after his discharge,	11
Debtors, Insolvent, Act of 1836, regulating the Assignment and Distribution of the Property of, repealed,	91
" " in addition to the several Acts for the relief of, and the more equal Distribution of their Effects,	207
" " in relation to,	191
Decennial Census and Statistical Information, in addition to the several Acts to secure,	26
Dedham Bank, to increase the Capital Stock of,	520
Deeds, Commissioners of, in Foreign Countries, Governor authorized to appoint,	188
" Indexing of, concerning,	225
" Indexing of, in addition to Act concerning,	624
" Indexing of, to amend Act concerning,	428
" Mortgage, containing a Power of Sale, to perpetuate Evidence of title to Real Property obtained under,	564

Deeds, Register of, for the County of Suffolk, to provide for the Election of,	Page 62
“ Register of, for the Northern District of Berkshire, authorizing removal of Office from Lanesborough to Adams,	474
“ Registry of, for the Northern District of Middlesex, relating to,	189
“ Registry of, in the Town of Littleton, concerning,	61
Deep Bottom, Indians of, to confirm the title of certain Lands in Tisbury to Jemima Easton, her Heirs, and others,	120
Dennis, Henry, of Rockport, Resolve on Petition of,	272
Department of the Secretary of the Commonwealth, Resolve in favor of,	281
Depot and Wharf Company, North American, to incorporate,	511
Deputy-Sheriffs of Northampton, Ansel and George F. Wright, Resolve in favor of,	290
“ and Sheriffs, in relation to,	108
Deputy-Warden and Warden of the State Prison, (late,) Resolve in favor of the Families of Galen C. Walker and Solon H. Tenney,	660
Design, New England School of, for Women, Resolve in aid of,	291
“ “ “ “ additional Resolve in aid of,	293
Destitute and Neglected Children, Overseers of the Poor authorized to remove, to Almshouses,	503
Dickson, Lydia V., Resolve on Petition of, praying that she may receive the Personal Estate of Elizabeth Lewis, deceased,	290
Directors of the Public Institutions for the City of Boston and County of Suffolk, to establish a Board of,	426
Discipline of the State Prison, concerning,	629
Disease, Potato, concerning the discovery of a Remedy for,	571
Disorderly and Idle Persons, concerning,	108
Dispensary, Homœopathic Medical, to incorporate,	112
Dissolution of Attachments, to amend chapter 66 of 1855, relative to,	598
Distribution of Professor Hitchcock's Geological Report, Resolve providing for,	694
District-Attorney of the Middle District, in relation to the Salary of,	161
“ “ for the South-Eastern District, to fix the Salary of,	201
District-Attorneys for the Northern, Eastern and Southern Districts, to fix the Salaries of,	559
District, Hopland School, in addition to Act incorporating,	516
“ of Marshpee, in addition to Act establishing,	219
Districts for the choice of Councillors, to divide the Commonwealth into,	243
“ Council, to arrange the Senatorial Districts into,	780
“ School, to repeal chapter 153 of the Acts of 1853, concerning,	602
“ Senatorial, to divide the Commonwealth into,	776
Dividing Line between East Bridgewater and Halifax established,	438
Division of the Commonwealth into Forty Districts for the choice of Senators,	776
Divorce, Libels for, relating to trial of,	602
“ relating to,	563
Documents, certain, Secretary of the Commonwealth authorized to furnish,	286
“ and Papers of the Senate, Resolve concerning,	701

INDEX.

xxi

Documents and Reports, Public, in relation to,	Page 428
Door-keepers, Clerks and Messengers of the Legislature, Resolve for the pay of,	785
" Messengers and Pages of the General Court, Resolve relating to compensation of,	293, 681
Dorchester Athenæum, to incorporate,	418
" Avenue Railroad Company, in addition to Act incorporating,	34, 202
" " " " concerning,	545
" Bay, Mystic River, and the Harbor of Boston, concerning,	226
" and Milton Branch Railroad Company, concerning,	508
" and Milton Extension Railroad, in addition to Act establishing,	77
" part of, annexed to Quincy, additional Act,	500
" and Roxbury Railroad Company, to incorporate,	603
" Selectmen of, Resolve on Petition,	674
Dower, authorizing release of, in behalf of Married Women who are Insane,	94
Dracut and Chelmsford, Bridge over Merrimack River between, to repeal part of an Act in addition to an Act incorporating certain persons for the purpose of building,	542
Draining of Low Lands, concerning,	637
Drains and Sewers in the City of Boston, concerning,	559
Drake, Tisdale, to extend his Wharf in Boston,	635
Drew, Luther, to build a Wharf,	241
Dry Dock Company, Simpson's Patent, to incorporate,	10
Dudley Indians, Resolves in favor of,	692
Dukes County, Commissioners of, to borrow Money,	527
" " Probate Courts of, in addition to Act concerning,	194
" " Register of Probate for, concerning the Salary of,	103
Dunham, George and another, to build a Wharf,	432
Duston Monument Association, to incorporate,	19
Duxbury, part of, annexed to Kingston,	441
" Plymouth and Kingston, Menhaden Fishery in the Towns of, to protect,	455
" Wesleyan Church in, to incorporate Trustees of,	480
Dwight Manufacturing Company, and Perkins Mills, concerning, and to increase the Capital Stock of the first named,	12

E.

East Boston Free Bridge, in addition to Act incorporating,	56
" Bridgewater and Halifax, dividing line between, established,	438
" Harbor, Bridge over, Towns of Truro and Provincetown to construct,	220
" Walpole Branch Railroad, to extend the time of construction of,	601
" Woburn Manufacturing Company, name of Etna Furnace Company changed to,	459
Eastern Hampden Agricultural Society, to incorporate,	88
" Northern and Southern Districts, to fix the Salaries of the District-Attorneys of,	559

Eastern Railroad, concerning the location of,	Page 242
" Railroad Company, to extend the time of payment of the State Loan to,	553
Eastham, Selectmen of, to build a Bridge across Boat Meadow River, .	147
Easton, Jemima, and her Heirs and other Indians of Deep Bottom, Title of certain Lands in Tisbury confirmed to,	120
Edgartown, Fishery in, to protect,	218
Education, Board of, authorized to appoint Agents,	665
" " Resolve concerning,	682
Educational, Charitable and Religious purposes, Corporations for, relat- ing to the organization of,	126
" Charitable and Religious purposes, Organization of Corpo- rations for, to amend chapter 215 of the Laws of 1856, relating to,	436
Election of Civil Officers, concerning,	88
" of Civil Officers, in addition to Act concerning,	527
" of Clerks of Courts and other County Officers, concerning, . .	98
" of Representatives in Congress, concerning,	145
" of School Committees, providing for,	619
Elections, relating to,	775
" of Representatives in the General Court, concerning,	780
" Returns of, concerning,	514
Eliot City Mission Society of Roxbury, to incorporate,	81
" Fire Insurance Company, to hold Real Estate,	443
Embezzlement, in certain cases, examination of persons suspected of, and relating to accounts of Executors, Administrators and Guardians,	444
" Crime of, concerning,	569
Enlargement of the State House, Resolve relative to,	261
Equalization of Taxes, Act for,	655
Equitable Marine Insurance Company, concerning,	451
Equity, giving further remedies in,	20
" giving Jurisdiction in, to the Supreme Judicial Court, in addi- tion to the several Acts,	548
Essex Bridge, to provide for the maintenance of,	615
" County Commissioners of, to lay out and construct a Highway in the Town of Manchester,	119
" County Commissioners of, to lay out a Highway and cause a Bridge to be built across Bass River, in Beverly,	148
" County of, Probate Court established in North Andover,	3
" Merrimack Bridge, concerning,	206
" Mutual Fire Insurance Company, to continue in force Act incor- porating,	418
Estate of Abraham Russell, Resolve relating to,	696
" certain Real, of Benjamin P. Homer, deceased, authorizing Sale of,	665
" certain Real, of the late Ephraim Peabody, J. I. Bowditch, Exec- utor, authorized to sell,	659

INDEX.

xxiii

Estate of Nahum Capen, Resolve in relation to,	Page 271
“ Personal, of Elizabeth Lewis, deceased, Resolve on Petition of Lydia V. Dickson, praying that she may receive,	290
“ Real, of Samuel Davis, deceased, Lucy and George P. Davis, Executors, authorized to sell,	671
Estates, Leasehold, in addition to Act relating to,	44, 435
Etna Furnace Company, to change the name and location of,	459
Evangelical Baptist Benevolent and Missionary Society, to incorporate,	503
Evasion of the Laws for the suppression of Lotteries, to prevent,	64
Evidence of Title to Real Property obtained under Mortgage Deeds containing power of Sale, to perpetuate,	561
Examination of persons suspected of Embezzlement, in certain cases, and in relation to accounts of Executors, Administrators and Guardians,	444
Exchange Mutual Insurance Company, Resolve on Petition of,	680
Execution, Attachment, to exempt certain Articles from,	570
“ to exempt the Homestead of a Householder from Levy on,	641
“ Imprisonment on, relating to,	609
Executions, Stay or Supersedeas of, in relation to ordering,	75
Executive Council and the Legislature and its Officers, Resolve for the pay of,	687
Executors, Administrators and Guardians, relating to accounts of, and the examination of persons suspected of Embezzlement, in certain cases,	444
“ who are Residuary Legatees, in relation to form of Bond to be given by,	456
Exemption of certain Articles from Attachment and Execution,	570
“ of the Homestead of a Householder, from Levy on Execution,	641
Expenses, certain General, not otherwise provided for, Resolve for payment of,	664
“ Contingent, of the Council, Legislature and Offices in the State House, Resolves providing for,	294, 664
“ of the Insurance Commissioners, Resolves to provide for,	292
Extinguishment of the Public Debt, relating to,	534

F.

Fairbanks, George O. and others, of Fall River, Resolve on Petition of,	290
Fairhaven Mutual Marine Insurance Company and the Attleborough Mutual Fire Insurance Company, concerning,	453
“ and New Bedford, to prevent Obstructions in the Ferry-way between,	602
Fall River Athenæum, to incorporate,	60
Fall River, City of, in addition to Act establishing,	449, 451
“ and Warren Railroad Company, to incorporate,	420
“ Young Men's Christian Association, to incorporate,	473
False Pretences, concerning the offence of obtaining Property under,	452

Farm Pond Fishing Company, in Edgartown, to incorporate,	Page 123
“ State, at Westboro’, Resolves in favor of,	279, 665
Faucet Company, Boston, name of American Lead Works changed to,	5
Fay, Francis B., John H. Wilkins and H. B. Rogers, Resolve in favor,	678
Fees, in the Courts of this Commonwealth, to secure Uniformity of,	160
Female Benevolent Society at South Danvers, to incorporate,	33
“ Convicts, in addition to Act relating to,	21
“ Medical Education Society, to change the name to New England Female Medical College, and reorganize the same,	115
Females, Aged, Home for, and Children’s Home in Roxbury, to incor- porate,	155
Ferry-way between New Bedford and Fairhaven, to prevent Obstruc- tions in,	602
Fields, General, concerning,	127
Fines and Forfeitures in Criminal Cases, regulating the payment of,	466
Fire Department of the City of Roxbury, relating to,	528
“ “ in the Town of Lynn, in addition to Act establishing,	90
First Baptist Church, in Woburn, to incorporate,	446
“ “ Society in Lawrence, name of the Amesbury Street Bap- tist Society changed to, and their doings legalized,	237
“ “ Society in Southbridge, Resolve on Petition of,	674
“ Congregational Parish, in West Cambridge to enclose their land,	107
“ “ Society, of Winchester, name of South Congrega- tional Society, of Woburn, changed to,	7
Fish, Artificial Propagation of, Resolve concerning,	277 +
“ in Buzzard’s Bay, within the Towns of Sandwich and Wareham, for the preservation of,	102 -
“ in Merrimack River, for the preservation of,	221 -
“ Ways at the several Dams on Barker’s River, so called, in the Town of Pembroke, relating to,	43 -
“ Weirs, to regulate the construction of,	27 -
Fisheries, to amend chapter 55 of the Revised Statutes, relating to,	424 +
“ in Ipswich River, in addition to the several Acts to protect,	161 -
“ in Ipswich River, to protect,	9 -
“ in Ipswich River, to protect, in the Towns of Hamilton, Wen- ham, Topsfield, Boxford and Middleton,	28 -
“ on the South Shore and Bays, on the south side of the Town of Barnstable and District of Marshpee, to protect,	125 -
Fishery in the Town of Edgartown, to protect,	218 -
“ Menhaden, in the Towns of Duxbury, Plymouth and Kingston, to protect,	455 -
“ in Pleasant Bay, to protect,	145 -
Fishing Bounty, Cod, Resolves concerning the proposed repeal of,	657 +
Fishing Company, Farm Pond, in Edgartown, to incorporate,	123 -
“ “ Pocha Pond Meadow, in Edgartown, additional to Act incorporating,	24 -
Fitchburg Gas Company to supply the inhabitants of Fitchburg with Water,	113

INDEX.

XXV

Fitchburg, the Grand Junction and the Boston and Lowell Railroads, Bridge at the intersection of, in Somerville,	Page 232
“ Railroad Company, concerning,	76
“ Water for the Inhabitants of, Fitchburg Gas Company authorized to supply,	113
Five Cents Savings Bank, Boston, to hold Real Estate,	440
Fletcher, Thomas J. and others, Indians of Herring Pond, Resolve on Petition of,	686
Foreign Countries, Commissioners of Deeds in, Governor to appoint,	188
Foreign Sumac, Inspection of, to repeal Act providing for,	502
Forfeitures and Fines in Criminal Cases, regulating the payment of,	466
Fort Hill Corporation, in addition to Act establishing,	455
Foster, Sarah B., Resolve on Petition of John B. Alley and Francis O. Watts, Executors,	680
Fourth Congregational Precinct, in Rochester, Act to change the name of, and for other purposes,	46
Framingham Hotel Company, to incorporate,	47
“ Police Court in, to establish,	468
“ State Normal School-house at, concerning,	280
Franking Privilege, Cheap Postage, Resolves concerning,	288
Franklin Savings Bank, in Pawtucket, to incorporate,	431
Fraud by the sale Adulterated Milk, to punish,	130
Frauds in Officers of Corporations, and other persons, to punish,	65
Fraudulent Debtors, Punishment of, and Imprisonment for Debt, to amend and consolidate the several Acts concerning,	489
“ Sale of Personal Property, leased or hired, to prevent,	504
Free Bridge Corporation, Hancock, authorized to surrender the West Boston and Canal Bridges to the City of Cambridge,	606
“ “ East Boston, in addition to Act incorporating,	56
“ Grammar School, Brimfield, Trustees of, corporate name changed to Hitchcock Free Grammar School,	231
“ School, Punchard, in the Town of Andover, in addition to Act incorporating Trustees of,	39
Freeland, Jonathan W., Resolve on Petition of, to sell Real Estate,	278
Friend, Charles and Nathaniel, to extend their Wharf in Gloucester,	472
Friend, Joseph and Samuel K., and Frederick Norwood, to extend their Wharf,	120
Fugitives from Justice, in relation to,	635
Funds, Trust, Resolve on Petition of William Greenleaf to pay over,	275
Furnace Company, Etna, to change the name and location of,	459
Furniture and Repairs for the State House, Resolve relative to,	268
“ for the State House, and Repairs, Resolve concerning,	690
G.	
Gaming, Billiard Tables and Bowling Alleys, in relation to,	531
Gardner Library Association, to incorporate,	54
Gary, John, to extend his Wharf,	57

Gas Company, Fitchburg, to supply the Inhabitants of Fitchburg with Water,	Page 113
“ “ Lawrence, increase of Capital Stock authorized,	6
“ “ Malden and Melrose, in addition to Act incorporating,	204
“ “ New Bedford, to increase the Capital Stock of,	401
“ “ Roxbury, relating to,	485
“ “ Tremont, to repeal Act incorporating,	156
Gay Head Indians and the Town of Chilmark, boundary line between, established and confirmed,	120
“ “ Resolves in favor of,	269, 281
“ Resolve on Petition of Overseers of,	672
General Charitable Society of Newburyport, to incorporate,	204
“ Court, Door-keepers, Messengers and Pages, Resolve relating to the compensation of,	293
“ “ relating to Applications to,	609
“ “ relating to compensation of the Door-keepers, Messengers and Pages,	681
“ “ Resolve to publish the Act relating to Applications to,	700
“ Expenses, certain, not otherwise provided for, Resolve for the payment of,	664
“ Fields, concerning,	127
“ Government, Massachusetts Claim against, Resolves concerning,	681
“ Index of Senate Journals, Resolve concerning,	701
“ Statutes, Commissioners for the consolidation of, Resolve to pay,	684
Geological Report, Hitchcock's, Resolve providing for the publication and distribution of,	694
Gilbert, C. C., W. C. Barstow, B. C. Ward and E. S. Rand, to extend their Wharf,	22, 45
Girls, State Industrial School for, changing the name of the State Reform School for Girls, to,	31
“ “ “ “ concerning Donation of Henry B. Rogers to,	549
“ “ “ “ Resolve concerning,	678
“ “ “ “ Resolve in favor of,	277
“ “ “ “ and State Reform School for Boys, relating to support of certain In- mates of,	84
“ “ Reform School for, in addition to Act establishing,	33
“ “ “ “ “ name changed to State Industrial School for Girls,	31
“ “ “ “ “ Resolve in favor of,	265
“ “ “ “ “ Resolve in favor of John H. Wilkins, H. B. Rogers and Francis B. Fay, for services as Commissioners,	678
Globe Insurance Company in Boston, to incorporate,	246
Gloucester, George Lane, a Constable of the Town of, Resolve in favor, Goday, William, Resolve in favor of,	272
Goodwin, Samuel J., to build a Wharf, in Swampscott,	281
Goodwin, Samuel J., to build a Wharf, in Swampscott,	443
Gorham, Laura N., Resolve on Petition of,	682

Governor's Inaugural Address,	297, 705
Grafton Indians, Resolve on Petition of Charles Brigham, Trustee,	672
Grammar School, Brimfield Free, Trustees of, to change the name to the Hitchcock Free Grammar School,	231
Grand Junction, the Fitchburg and the Boston and Lowell Railroads, Bridge in Somerville, at the intersection of,	232
Greenfield, William, Resolve on Petition of, to pay over certain Trust Funds,	275
Groton, part of, annexed to Pepprell,	510
“ Probate Court at, changing the time of holding,	197
Groveland, part of the Town of Boxford annexed to,	31
Guardian of the Chappquiddie Indians, and others, Resolve on Peti- tion of,	265
Guardians, Executors, Administrators, relating to accounts of, and the examination of persons suspected of Embezzlement, in certain cases,	414

II.

Halifax and East Bridgewater, dividing line between, established,	438
Hamilton, Ipswich River Fisheries, in the Town of, to protect,	28
Hampden Agricultural Society, Eastern, to incorporate,	88
“ County Courts, Salary of Clerk, established,	620
Hampshire and Hampden Railroad Corporation authorized to extend their Railroad,	104
“ and Hampden Railroad, to extend and unite, with the Con- necticut River Railroad,	573
“ Manufacturers' Bank, to increase the Capital Stock of,	544
“ Mutual Fire Insurance Company, to continue in force Act incorporating,	19
Hancock Free Bridge Corporation authorized to surrender the West Boston and Canal Bridges to the City of Cambridge,	606
Hanover and South Scituate, determining the boundary line between,	509
“ “ “ Resolves in relation to town lines between,	286
Harbor of Boston, lines in, additional to Act concerning,	235
“ “ Mystic River and Dorchester Bay, concerning,	226
“ “ to protect,	237
“ “ Scientific Survey of, Resolves relative to,	264
Harbor, Cape Cod, Resolve concerning the preservation of,	694
Harbor and City of New Bedford, Jurisdiction over certain Shoals and Lands in, ceded to the United States,	51
“ “ “ Jurisdiction over certain Shoals and Lands in, ceded to the United States, additional Act,	473
Hatch, Silas and others, to construct a Cart-way in the Town of Fal- mouth,	444
Haven, A. S., Resolve on Petition of,	688
Haverhill Bank, to increase the Capital Stock of,	502

Haverhill, Ladies' Charitable Association at, to incorporate,	Page 77
" Mechanics' Institute, to incorporate,	41
" Mutual Fire Insurance Company, to continue in force Act incorporating,	8
Hayti and Liberia, Resolves respecting,	689
Heirs of the late John Curtis, to extend their Wharf, in Boston,	640
Herring Pond Indians, Resolve in favor of,	263
" " " Resolve in favor of,	670
" " " Resolve on Petition of Thomas J. Fletcher and others,	686
Hide and Leather Bank, in Boston, to incorporate,	601
Highway in Beverly, County Commissioners of Essex to lay out, and cause a Bridge to be built across Bass River,	148
" County Commissioners of Middlesex, to lay out, and construct a Bridge over Malden River,	12
" County Commissioners of Plymouth, to lay out, and construct a Bridge over the Wewantitt River,	90
" in the Town of Manchester, County Commissioners of Essex to lay out and construct,	119
" in Medford, County Commissioners of Middlesex, to lay out, and construct a Bridge over Mystic River, in addition to Act authorizing,	461
" across Mystic River, to extend the time for constructing,	9
" in Somerset, County Commissioners of Bristol to lay out, and construct a Bridge over Skunk Creek,	150
Historical Society, Massachusetts, in relation to,	430
Hitchcock Free Grammar School, name of the Trustees of the Brimfield Free Grammar School, changed to,	231
Hitchcock's Geological Report, Resolve providing for the publication and distribution of,	694
Holmes, John S., Resolve on Petition of,	684
Holyoke and Willimansett Bridge, to incorporate the Proprietors of,	532
Home, Children's, and Home for Aged Females, in Roxbury, to incor- porate,	155
" Mutual Fire Insurance Company, to incorporate,	6
Homer, Benjamin P., deceased, authorizing sale of certain Real Estate formerly belonging to,	665
Homestead of a Householder, exempted from Levy on Execution,	641
Homeopathic Medical Dispensary, to incorporate,	112
" " Society, Massachusetts, to incorporate,	162
Hopkinton Bank, to increase the Capital Stock of,	515
Hopland School District, in addition to Act incorporating part of the Town of Lee into a School District,	516
Hopkins, Abner F., Resolve on Petition of,	279
Horse-Racing, in addition to Act suppressing,	52
Horse Railroad, Boston and Chelsea, concerning,	73, 441
" " Broadway, in addition to Act incorporating,	192
" " " concerning,	549

INDEX.

xxix

Horse Railroad, Brookline, to incorporate,	Page 648
“ “ Dorchester Avenue, in addition to Act incorporating,	31, 202
“ “ “ “ concerning,	545
“ “ “ and Roxbury, to incorporate,	603
“ “ Malden and Melrose, to incorporate,	238
“ “ Medford and Charlestown, in addition to Act incorpo- rating,	406
“ “ Middlesex, concerning,	53, 431
“ “ Newton, to incorporate,	624
“ “ “ to incorporate, additional Act,	646
“ “ Somerville, to incorporate,	600
“ “ Suffolk, to incorporate,	630
“ “ Waltham and Watertown, concerning,	488
“ “ West Cambridge, to incorporate,	593
“ “ West Roxbury, to incorporate,	116
“ “ “ “ in addition to Act incorporating,	564
“ “ Western Avenue, to extend the time for constructing,	16
“ “ Winnisimmet, to incorporate,	559
Horse Railroads, concerning the Annual Returns of,	574
“ “ concerning the Location of,	535
Horses, relating to Taxation of,	616
Hospital, Boston Lunatic, concerning,	627
“ for Insane in Western Massachusetts, in addition to Act estab- lishing,	628
“ “ “ “ to amend Act establish- ing,	628
“ on Rainsford Island, relating to the Inspectors of,	598
“ “ “ Resolve in favor of,	681
“ State Lunatic, at Northampton, Resolve in aid of,	699
“ “ “ at Taunton, Resolve in favor of,	698
Hospitals, State Lunatic, establishing Boards of Trustees for, and in addi- tion to the Acts concerning Lunatic Hospitals,	160
“ “ “ relating to appointment of Trustees of,	16
“ “ “ relating to persons committed to, not having a known settlement in the Commonwealth,	544
“ “ at Rainsford Island and Taunton, Resolve in aid of,	275
Hotel, City, in Worcester, in addition to Act incorporating Proprietors of,	102
“ Company, American, in the North Village in Adams, to incorpo- rate,	82
“ “ Brookline, to incorporate,	200
“ “ Framingham, to incorporate,	47
“ “ Northampton, to incorporate,	193
“ “ Oxford, to incorporate,	85
“ “ South Reading, to incorporate,	115
“ “ United States, at Lawrence, to incorporate,	433
Houghton, Samuel, Agent of the Proprietors of Roxbury, Maine, Resolve on Petition of,	660

Housatonic Bank, to increase the Capital Stock of,	Page 540
House Company, Williams, to incorporate,	27
“ of Correction, County Commissioners of Bristol to borrow Money either to repair or build,	224
“ “ and Jail in the County of Plymouth, relative to,	80
“ of Representatives, late Acting-Clerk of, Resolve in favor of,	661
“ “ Council and Senate, Resolves providing for the pay of,	289
“ “ Journals and Papers of, Resolve concerning,	262, 270
“ “ Resolves to complete the Index to the Jour- nals and Catalogue of the Papers,	663
“ “ Resolve for the pay of the Chaplain,	697
Householder, Homestead of, exempted from Levy on Execution,	641
Houses of Correction, Overseers of, and Keepers of Jails, to secure Returns from,	636
Howard Society, Ladies', of Nantucket, to incorporate,	147
Huntington, Pitcher's Bridge in, relating to,	471
“ Resolve in favor of the Town of,	662
Hurd, Joseph, Resolve in relation to the Will of,	691
Husband and Wife, concerning,	50

I.

Ice Company, Silver Lake, to change the name of the Plympton Branch Railroad Company to,	17
Ice and Snow, relative to removal of, from Sidewalks of Cities,	412
Idiotic Children, Resolve concerning,	702
Idiots and Lunatics, relating to,	55
Idle and Disorderly Persons, concerning,	108
Inprisonment for Debt and the Punishment of Fraudulent Debtors, to amend and consolidate the several Acts concerning,	489
“ on Execution, relating to,	609
Inaugural Address of the Governor,	297, 705
Indenture concerning the Back Bay, to confirm,	514
Independent Benevolent Society in Newburyport, to incorporate,	124
Index to the Journals and Catalogue of the Papers of the House of Representatives, Resolve to complete,	663
“ of Senate Journals, Resolve concerning,	701
Indexing of Deeds, concerning,	225
“ of Deeds, in addition to Act concerning,	624
“ of Deeds, to amend Act concerning,	428
India Fire and Marine Insurance Company, to incorporate,	514
“ Wharf, Proprietors of, in addition to Act incorporating,	464
Indians, Chappequiddic and others, Resolve on Petition of Guardian of, “ Christiantown and Chappequiddic, Resolve in aid of,	265
“ of Deep Bottom, to confirm the title of certain Lands in Tis- bury to Jemima Easton, her Heirs, and others,	675
“ Dudley, Resolves in favor of,	120
“ Dudley, Resolves in favor of,	692

INDEX.

xxxix

Indians, of Gay Head and the Town of Chilmark, boundary line between, established and confirmed,	Page 120
“ of Gay Head, Resolve in favor of,	269, 281
“ Gay Head, Resolve on Petition of the Overseers of,	672
“ Grafton, Resolve on Petition of Charles Brigham, Trustee,	672
“ Herring Pond, Resolve in favor of,	263, 670
“ Herring Pond, Resolve on Petition of Thomas J. Fletcher and others,	686
“ Troy, Resolve in aid of,	671
Industrial School for Girls, and the Reform School for Boys, State, relating to support of certain Inmates of,	81
“ “ “ State, to change the name of the State Reform School for Girls, to,	31
“ “ “ State, concerning Donation of Henry B. Rogers,	549
“ “ “ State, Resolve concerning,	678
“ “ “ State, Resolve in favor of,	277
Information, Official, Resolves authorizing Publication of Laws,	666
Inhabitants of the Commonwealth, and Legal Voters, Act for taking the Census of,	439
Inland Mutual Insurance Company, Boston, to incorporate,	114
Insane Convicts, in addition to Act for the removal of, from the State Prison,	75
“ Hospital for, in Western Massachusetts, in addition to Act establishing,	628
“ “ for, in Western Massachusetts, to amend Act establishing,	628
“ Married Women, authorizing release of Dower in behalf of,	94
“ Persons in the City of Boston, concerning,	647
Insolvency Courts, Salaries of Judges and Registers established,	621
Insolvent Debtor, new promise in writing required of, after his discharge,	11
“ Debtors, in addition to the several Acts for the relief of, and the more equal Distribution of their Effects,	207
“ “ Assignment and Distribution of the Property of, Act of 1836 repealed,	91
“ “ in relation to,	191
Inspection of Foreign Sumac, to repeal Act providing for,	503
Inspectors of the Hospital on Rainsford Island, relating to,	598
Institute Association, South Berkshire, to incorporate,	193
“ Haverhill Mechanics', to incorporate,	41
“ Roxbury, to incorporate,	87
“ Webster, in the City of Cambridge, to incorporate,	36
Institution for Savings, Springfield, relating to,	431
Institutions, Public, for the City of Boston and County of Suffolk, to establish a Board of Directors of,	426
Insurance Commissioners, Board of, Resolve in favor,	700
“ “ Expenses of, Resolves to provide for,	292
“ Companies, concerning,	163

Insurance Companies, in addition to Act concerning,	Page 609
“ “ Mutual Fire, to repeal Act incorporating ‘Towns and Cities into, at their election,	502
“ Company, Abington Mutual Fire, to incorporate,	123
“ “ Artisans’, to incorporate,	597
“ “ Attleborough Mutual Fire, and the Fairhaven Mutual Marine, concerning,	453
“ “ Berkshire Mutual Fire, in addition to Act incor- porating,	404
“ “ Boston Inland Mutual, to incorporate,	114
“ “ Bowdoin Mutual Fire, to incorporate,	220
“ “ City Fire, name of Cochituate Fire Insurance Com- pany of Boston changed to,	4
“ “ Cochituate Fire, of Boston, to change the name of,	4
“ “ Danvers Mutual Fire, to continue in force Act in- corporating, and to change the name to the South Danvers Mutual Fire Insurance Com- pany,	22
“ “ Eliot Fire, to hold Real Estate,	443
“ “ Equitable Marine, concerning,	451
“ “ Essex Mutual Fire, to continue in force Act incor- porating,	418
“ “ Exchange Mutual, Resolve on Petition of,	680
“ “ Fairhaven Mutual Marine, and the Attleborough Mutual Fire, concerning,	453
“ “ Globe, in Boston, to incorporate,	246
“ “ Hampshire Mutual Fire, to continue in force Act incorporating,	19
“ “ Haverhill Mutual Fire, to continue in force Act incorporating,	8
“ “ Home Mutual Fire, to incorporate,	6
“ “ India Fire and Marine, to incorporate,	514
“ “ Lowell Mutual Fire, to continue in force Act in- corporating,	462
“ “ Lynn Mutual Fire, to continue in force Act incor- porating,	12
“ “ Massasoit, to incorporate,	424
“ “ Merchants’ Mutual Marine, to incorporate,	402
“ “ Monnamoiet, to incorporate,	434
“ “ New England Railroad Mutual Fire, to incorporate,	29
“ “ New England Railroad Mutual Fire, in addition to Act incorporating,	551
“ “ Newburyport Mutual Fire, to continue in force Act incorporating,	400
“ “ Pacific Mutual, to incorporate,	41
“ “ Quincy Fire and Marine, in addition to Act incor- porating,	467
“ “ Railroad Mutual Fire, surrender of Charter, to accept,	29

INDEX.

xxxiii

Insurance Company, Salem Marine, to incorporate,	Page 5
“ “ South Danvers Mutual Fire, name of Danvers Mutual Fire Insurance Company changed to,	22
“ “ Tremont, Act continuing,	3
Inundation, Proprietors of certain Lands in Northampton enabled to protect the same against,	157
Ipswich River, Fisheries in, in addition to the several Acts to protect,	161
“ “ Fisheries in, to protect,	9
“ “ Fisheries in, to protect, in the Towns of Hamilton, Wenham, Topsfield, Boxford and Middleton,	28
Iron Company, Mount Hope, to increase the Capital Stock of,	513

J.

Jail and House of Correction in the County of Plymouth, relative to,	80
Jails and Houses of Correction, to secure Returns from Keepers and Overseers of,	636
Jamaica Plain Athenæum, to incorporate,	53
“ Pond Aqueduct Corporation, to incorporate,	481
Jenkins, Clem, Resolve on Petition of, for leave to inherit certain Real Estate,	277
Jenks, Samuel H., Resolve in favor of,	699
Jennings, Calvin, and J. S. Montague, Resolve on Petition of,	663
Jennison, Samuel, Jr., Guardian, Resolve on Petition of,	267
John Hancock Bank, to amend the Charter of,	418
Johnson, William G., to build a Wharf, in Rowley,	419
Joint Stock Companies, in addition to an Act relating to, and for other purposes,	623
“ “ “ to amend chapter 478 of the Acts of 1855, concerning,	419
Jones, Ralph K., Resolve in favor of,	673
Journal Newspaper Company, to incorporate,	536
Journals, Index to, and Catalogue of the Papers of the House of Representatives, Resolve to complete,	663
“ and Papers of the House of Representatives, Resolve concerning,	262, 270
“ and Papers of the Senate, Resolve concerning,	294
“ Senate, Resolve concerning General Index of,	701
Judges of Probate, in addition to Act concerning,	195
“ and Registers of Courts of Insolvency, establishing Salaries of,	621
Jurisdiction over certain Lands on Billingsgate Island, ceded to the United States,	472
“ over certain Lands and Shoals in the City and Harbor of New Bedford, to cede to the United States, and for other purposes,	51
“ over certain Lands and Shoals in the City and Harbor of New Bedford, ceded to the United States, additional Act,	473

Jurisdiction in Equity, in addition to the several Acts giving to the Supreme Judicial Court,	Page 548
“ of Justices of the Peace, concerning,	84
“ of Police Courts, concerning,	505
“ of the Supreme Judicial Court, in relation to,	443
Jurors, Lists of, relating to,	66
Justices of the Peace, Jurisdiction of, concerning,	84
“ “ “ and Police Courts, relating to return of Writs in Civil Actions before,	48
“ of the Supreme Judicial Court, Salaries of, to establish,	7

K.

Kane, Elisha Kent, Resolves in relation to the recent death of,	659
Kansas Company, Boston, to incorporate,	405
“ Territory of, Resolves in relation to,	286
Keepers of Jails and Overseers of Houses of Correction, to secure Re- turns from,	636
Kingston, Duxbury and Plymouth, Menhaden Fishery in the Towns of, to protect,	455
“ part of Duxbury annexed to,	441
Knowlton, James A., to drive Piles on Blaney's Beach, in Swampscott,	458

L.

Ladies' Benevolent Society of Newbury, to incorporate,	129
“ Charitable Association at Haverhill, to incorporate,	77
“ Howard Society, of Nantucket, to incorporate,	147
Lagoon Pond Company, in Dukes County, to incorporate,	455
Lamb, Edward, Resolve in favor of,	664
Lancaster, State Industrial School for Girls at,	678
Land taken for Public Ways, relating to,	481
Lands in the Back Bay, Resolves in relation to,	284
“ certain, on Billingsgate Island, Jurisdiction ceded to the United States,	472
“ certain, in Northampton, Proprietors of, enabled to protect the same against Inundation,	157
“ “ “ Treasurer to release and quitclaim to Enos Clark, Jr.	274
“ Low, concerning the Draining of,	637
“ mortgaged to the Commonwealth, in relation to,	35
“ Parsonage, of the Second Parish in West Newbury, concerning, and Shoals in the City and Harbor of New Bedford, to cede to the United States Jurisdiction over, and for other purposes,	620
“ and Shoals in the City and Harbor of New Bedford, in addition to Act ceding Jurisdiction to the United States,	473
“ in the State of Maine, further to postpone the operation of chapter 53 of Resolves of 1855, concerning,	273
“ in Tisbury, certain, to confirm the title of, to Jemima Easton and her Heirs, and other Indians of Deep Bottom,	120

INDEX.

XXXV

Lane, George, a constable of the Town of Gloucester, Resolve in favor of,	Page 272
Lanesborough, authorizing removal from, of the Office of Register of Deeds for the Northern District of Berkshire,	474
Law Library Associations, in further addition to Act relating to,	37, 107
Laws, and Official Information, Resolves authorizing the publication of,	666
" for the suppression of Lotteries, to prevent the evasion of,	64
" State, Resolve concerning the publication of,	292
Lawrence Bridge, in addition to Act incorporating the Proprietors of,	419
" First Baptist Society in, name of the Amesbury Street Baptist Society changed to, and their doings legalized,	237
" Gas Company, increase of Capital Stock authorized,	6
Lead Works, American, to change the name of,	5
Leasehold Estates, in addition to Act relating to,	44, 135
Lebanon Springs Aqueduct Company, in aid of,	155
" " Railroad, extending the time for construction of,	403
Lee Bank, to increase the Capital Stock of,	547
" and New Salem, Resolve in favor of the Towns of,	700
" part of, incorporated into a School District by the name of the Hopland School District, additional Act,	516
Letds, James, Resolve on Petition of,	680
Legal Voters and Inhabitants of the Commonwealth, Act for taking the Census of,	439
Legatees, Residuary, relative to form of Bond to be given by Executors who are,	456
Legislature, Chaplains of, Resolve in behalf,	678, 785
" Clerks, Door-keepers and Messengers, Resolve for the pay of,	785
" concerning Appointment of Members of, to certain Officers, of Connecticut, Resolve in relation to certain Resolutions of,	292
" Council, and Offices in the State House, Resolves providing for Contingent Expenses of,	294, 664
" limiting the Sessions of, Resolve to amend the Constitution relative to,	703
" Messengers and Pages of the two branches, Resolve concerning the pay of,	272
" and its Officers, Executive Council, Resolves for the pay of,	687
" and its Officers, Resolve for the pay of, monthly,	257, 657
Lenox Water Company, to incorporate,	540
Levy on Execution, Homestead of a Householder exempted from,	641
Lewis, Elizabeth, deceased, Personal Estate of, Resolve on Petition of Lydia V. Dickson, praying that she may receive,	290
Libels for Divorce, in relation to trial of,	602
Liberia and Hayti, Resolves respecting,	689
Liberty Hall Association, Directors of, to purchase and hold additional Real Estate,	116
Library Association, Chebacco, to incorporate,	81
" " Congregational of Boston, to hold additional Real and Personal Estate,	71

Library Association, Gardner, to incorporate,	Page 54
“ “ Lynn, in addition to Act incorporating,	125
“ “ Mercantile, in addition to Act incorporating,	24
“ “ Young Men's, of Worcester, in addition to Act incorporating,	26
“ Associations, Law, in further addition to Act relating to,	37, 107
“ Astor, Resolve in favor of,	259
“ Plymouth, to incorporate,	196
“ Public, in the City of Boston, relating to,	404
“ State, Resolve in relation to,	265
“ “ Resolves in aid of,	679
Limiting the Sessions of the Legislature, Resolve to Amend the Consti- tution, relative to,	703
Lincoln Wharf Company, to incorporate,	452
Lines in Boston Harbor, in addition to Act concerning,	235
Liquors, Spirituous, concerning Purchase and Sale of, by City and Town Agents,	638
Lists of Jurors, relating to,	66
Literary Association, Bowdoin, of Dorchester, to incorporate,	23
Littleton, Registry of Deeds in the Town of, concerning,	61
Livingston, E. R. and others, Resolve on Petition of,	662
Loan Fund Associations, concerning,	434
“ State, to the Eastern Railroad Company, extending the time of payment,	553
“ State, to the Norwich and Worcester Railroad Company, in further addition to Act extending the time of,	596
Location of Horse Railroads, concerning,	535
Lotteries, to prevent the evasion of the Laws for the suppression of,	64
Low, David, to extend the Wharf belonging to the Heirs of George Parkhurst, deceased,	112
Low, John V., late Assistant-Messenger to the Governor and Council, Resolve in favor of the Widow of,	260
Low Lands, concerning the Draining of,	637
Lowell, additional Branch Track of the Boston and Lowell Railroad Company, authorized in the City of,	68
“ Branch Track in, extending time for the construction of, by the Boston and Lowell Railroad Company,	641
“ Charter of the City of, to amend,	121
“ Mutual Fire Insurance Company, to continue in force Act incor- porating,	462
“ Police Court in, concerning,	614
Lucas and Mayberry, Resolve in favor of,	673
Lunatic Hospital, Boston, concerning,	627
“ “ State, at Northampton, Resolve in aid of,	699
“ “ “ at Taunton, Resolve in favor of	698
“ Hospitals, State, establishing Boards of Trustees for, and in addi- tion to Acts concerning Lunatic Hospitals,	160

Lunatic Hospitals, State, relating to appointment of Trustees of,	Page 16
" " State, relating to Persons committed to, not having a known settlement in the Commonwealth,	514
Lunatics and Idiots, relating to,	55
Lynn, Assessment of Taxes, in 1853 and 1854, in relation to,	82
" Fire Department, in addition to Act establishing,	90
" Library Association, in addition to Act incorporating,	125
" Mechanics' Bank, to increase the Capital Stock of,	551
" Mutual Fire Insurance Company, to continue in force Act incor- porating,	12
Lynnfield and North Reading, to change the boundary line between,	572

M.

Macomber, Perry G., to plant Oysters in Pocasset,	507
Maine, Lands in the State of, further to postpone the operation of chap- ter 53, of Resolves of 1855, relating to,	273
Maintenance of Bastard Children, concerning cases arising under chapter 49 of the Revised Statutes,	646
Malden Bank, to increase the Capital Stock of,	499
" and Melrose Gas Light Company, in addition to Act incorpo- rating,	204
" and Melrose Railroad Company, to incorporate,	238
" River, Bridge over, County Commissioners of Middlesex to lay out a Highway and construct,	42
Manchester, Highway in the Town of, County Commissioners of Essex to lay out and construct,	119
Manufacturing Company, Beaman, authorized to increase their Capital Stock,	11
" " Belvidere Woolen, in addition to Act incor- porating,	402
" " Cutting Machine, in addition to Act incorpo- rating,	108
" " Dwight and Perkins Mills, concerning, Capiti- tal Stock of the former increased,	12
" " East Woburn, name of Etna Furnace Com- pany changed to,	459
" " Nashawannuck, to increase the Capital Stock of,	401
" " S. P. Ruggles Power Press, in addition to Act incorporating,	103
" " United States Chemical, authorized to change their name and location,	38
Map, State, Resolves in relation to,	693
Maple Street Church and Society, in Danvers, name of the Third Ortho- dox Congregational Society, changed to,	467
Margaret Coffin Prayer Book Society, to incorporate certain persons by the name of,	69

Marine Railway, Parker, Joseph B. and Elias Burnham, authorized to extend,	Page 31
“ Telegraph Company, Boston and Cape Cod, to incorporate, . . .	63
Mariners and Ship-Owners, to protect, from imposition,	487
Marion, Congregational Church and Society in, name of Fourth Congregational Precinct, in Rochester, changed to,	46
Marriage, Banns of, in addition to Act relating to,	425
Married Women who are Insane, authorizing release of Dower in behalf of,	94
“ “ Property of, in addition to Act to protect,	598
Marsh, Henry A., Resolve in favor of,	257
“ “ “ Resolve relative to the pay of,	291
Marshpee, District of, in addition to Act establishing,	219
“ “ of, to protect the Fisheries on the South Shore and Bays, on the south side of the Town of Barnstable,	125
“ Selectmen of, Resolves on Petition of,	261
Mason, Cyrus and Hannah P., and William Sohier, Resolve on Petition of,	267
Massachusetts Claim against the General Government, Resolves concerning,	681
“ Convention of 1788, Resolve relating to,	259
“ “ “ additional Resolve,	264
“ Historical Society, in relation to,	430
“ Homœopathic Medical Society, to incorporate,	162
“ and New Plymouth Colony Records, in addition to Resolve concerning,	700
“ and New Plymouth Colony Records, Resolves concerning,	701
“ Peat Coal Company, to incorporate,	501
“ Records, Resolve relating to,	260, 291
“ School of Agriculture, to incorporate,	152
“ Sabbath School Society, in addition to Act incorporating,	425
“ State Teachers' Association, Resolve in favor of,	673
Massasoit Insurance Company, to incorporate,	424
Mattapoisett, Town of, to incorporate,	537
Maverick Bank, in East Boston, in addition to Act incorporating,	33
Mayberry, and Lucas, Resolve in favor of,	673
McKay, Donald, to build a Wharf,	236
Mechanic Hall Corporation, Salem, in addition to Act incorporating,	627
Mechanics' Association, Worcester County, in addition to Act incorporating,	111
“ Bank, in New Bedford, to increase the Capital Stock of,	512
“ Institute, Haverhill, to incorporate,	41
Medford and Charlestown Railroad Company, in addition to Act incorporating,	406
Medical College, New England Female, name of the Female Medical Education Society changed to, and the same reorganized,	115
“ Dispensary, Homœopathic, to incorporate,	112

Medical Education Society, Female, to change the name to New England Female Medical College, and to reorganize the same,	Page 115
“ Society, Massachusetts Homœopathic, to incorporate,	162
Members of the Legislature, concerning Appointment of, to certain Offices,	529
Merrimaden Fishery in the Towns of Duxbury, Plymouth and Kingston, to protect,	455
Mercantile Library Association, in addition to Act incorporating,	24
Merchants’ Mutual Marine Insurance Company, to incorporate,	402
Merrimack Bridge, Essex, concerning,	206
“ River, Bridge over, between Dracut and Chelmsford, to repeal part of an Act in addition to Act incorporating certain persons for the purpose of building,	542
“ “ Fish in, for the preservation of,	221
Messages, Special,	317, 735
Messenger to the Governor and Council, Assistant, Resolve in favor of the Widow of John V. Low, deceased,	260
Messengers, Clerks and Door-keepers of the Legislature, Resolve for the pay of,	785
“ Pages and Door-keepers of the General Court, Resolve re- lating to compensation of,	293, 681
“ and Pages of the two branches of the Legislature, Resolve concerning the pay of,	272
Methodist Episcopal Church Camp-Meeting Association, Worcester District, Trustees of, incorporated,	61
“ “ Church Camp-Meeting Association, Worcester District, to change the name to Sterling Camp-Meeting Association,	479
“ “ Churches, African, concerning Trustees of,	433
Middle District, Attorney, in relation to the Salary of,	161
Middleborough, Probate Court in, time of holding, changed,	64
Middlesex, County Commissioners to lay out a Highway and construct a Bridge over Malden River,	42
“ County Commissioners to lay out a Highway and construct a Bridge over Mystic River, in Medford, in addition to Act authorizing,	461
“ County Commissioners, September Meeting of, to change the place of holding,	427
“ County, Probate Court, to establish the Terms of,	451
“ Court of Common Pleas for the County of, relating to,	96
“ Northern District of, relating to the Registry of Deeds for,	189
“ Probate Court at Groton, in the County of, changing the time of holding,	197
“ Railroad Company, concerning,	53, 431
Middleton, Ipswich River Fisheries in the Town of, to protect,	28
Milford Police Court, in addition to Act establishing,	193
“ “ “ concerning,	612
“ and Woonsocket Railroad Company, concerning,	463

Militia, concerning,	Page 647
Milk, Adulterated, to punish Fraud by sale of,	130
Mill Corporation, Boston and Roxbury, concerning,	106
“ Pemberton, to increase the Capital Stock of,	432
“ and Reservoir Dams, in addition to Act relating to,	509
Millbury Bank, to increase the Capital Stock of,	192
“ and Southbridge Railroad Company, concerning,	423
“ and Southbridge Railroad, to extend the time for the construction of,	12
Miller, Benjamin W., to plant Oysters in Taunton Great River, in addition to certain Acts authorizing,	45
Miller's River Bank, in Athol, to increase the Capital Stock of,	519
Mills, Perkins and Dwight Manufacturing Company, concerning, and to increase the Capital Stock of the latter,	12
“ Salisbury, to incorporate,	57
Minor Children whose Parents are living separate, respecting the custody of,	14
Mission Park Association, to incorporate,	401
“ Society, Eliot City, of Roxbury, to incorporate,	81
Missionary Society, Evangelical Baptist Benevolent, to incorporate,	503
Money, Treasurer to borrow, in anticipation of the Revenue,	258, 658
“ Treasurer to borrow, in anticipation of the State Tax,	279, 698
Monnamoiet Insurance Company, to incorporate,	434
Monson, State Almshouse at, Resolve relating to,	681
Montague, J. S., and Calvin Jennings, Resolve on Petition of,	663
Monument Association, Duston, to incorporate,	19
Morey, George, Resolve on Petition of,	685
“ Sherburn F., Resolve on Petition of,	272
Mortgage Deeds containing Power of Sale, to perpetuate Evidence of Title to Real Property obtained under,	564
Mortgaged Lands, (to the Commonwealth,) in relation to,	35
Mortgages, in addition to Act relating to,	464
“ of Personal Property, in addition to Act concerning,	101
“ Railroad, relating to Trustees under,	520
Mount Hope Iron Company, to increase the Capital Stock of,	543
Mount Wollaston Bank, in Quincy, to increase the Capital Stock of,	522
“ Washington Avenue Corporation, in addition to Act establishing,	500
Muddy River, Ways across, Commissioners of Norfolk County and others to lay out,	463
Municipal Records, for the better preservation of,	461
Mussey, Benjamin B., deceased, Resolve on Petition of Sidney Bartlett, Executor,	676
Mutual Fire Insurance Companies, to repeal Act incorporating Towns and Cities into, at their election,	502
“ “ “ Company, Abington, to incorporate,	123
“ “ “ “ Attleborough, and the Fairhaven	
“ Marine Insurance Company, concerning,	453

N.

Names, Change of,	249, 787
Nantucket Agricultural Society, to incorporate,	15
" Ladies' Howard Society of, to incorporate,	147
" Propeller Company, to incorporate,	129
Nashawannuck Manufacturing Company, to increase the Capital Stock of,	401
Naturalization, respecting,	25
Navigation Company, Charles River to incorporate,	437
Neglected and Destitute Children, authorizing removal to Almshouses, by Overseers of the Poor,	503
Neponset Bridge and Braintree and Weymouth Turnpike, concerning,	556
New Bedford, certain Lands and Shoals in the City and Harbor of, to cede to the United States Jurisdiction over, and for other purposes,	51
" " certain Lands and Shoals in the City and Harbor of, in addition to Act ceding to the United States, Jurisdiction over,	473
" " City of, in addition to Act establishing,	397
" " and Fairhaven, Ferry-way between, to prevent Obstructions in,	602
" " Gas Light Company, to increase the Capital Stock of,	401
New England Female Medical College, name of the Female Medical Education Society changed to, and the same reorganized,	115
" " Railroad Mutual Fire Insurance Company, to incorporate,	29
" " Railroad Mutual Fire Insurance Company, in addition to Act incorporating,	551
" " School of Design for Women, Resolve in aid of,	291
" " School of Design for Women, additional Resolve in aid of,	293
New Plymouth and Massachusetts Colony Records, in addition to Resolve concerning,	700
" " and Massachusetts Colony Records, Resolve concerning,	701
New Salem and Lee, Resolve in favor of the Towns of,	700
New York and Boston and the Charles River Railroad Companies, confirming the Union of, and extending the time for locating and constructing the same,	153
" " and Boston Railroad, to extend the time for locating and constructing,	428
Newbury, Ladies' Benevolent Society, to incorporate,	129
" Overseers of the Poor of the Town of, Resolve on Petition,	262
Newburyport, General Charitable Society of, to incorporate,	204
" Mutual Fire Insurance Company, to continue in force Act incorporating,	400
" Railroad Company to construct a Branch Railroad, in addition to Act authorizing,	45
Newspaper Company, Journal, to incorporate,	536

INDEX.

xliii

Newton Railroad Company, to incorporate,	Page 624
“ “ “ to incorporate, additional Act,	646
Norfolk and Bristol Turnpike Corporation, concerning,	53
“ County Commissioners authorized to construct a Bridge across the Boston and New York Central Railroad, in Dorchester,	39
“ “ “ and others, to lay out Ways across Muddy River,	463
Normal School, at Bridgewater, Nicholas Tillinghast, late Principal, Resolve in favor of the Widow and Child of,	280
“ School-houses, State, at Bridgewater, Westfield, Frammingham and Salem, Resolves concerning,	280
“ Schools and School Agents, Resolve in addition to Resolves of 1855, in favor of,	694
“ “ State, Resolves concerning,	691
Norris, Shaw, to build a Wharf,	38
North American Depot and Wharf Company, to incorporate,	511
“ Andover, County of Essex, establishing a Probate Court in,	3
“ Bridgewater, County of Plymouth, establishing Probate Court in, and changing the time of holding the Probate Court at Middleborough,	64
“ Chelsea, Beaches in, to amend Act concerning,	447
“ Reading and Lynnfield, to change the boundary line between,	572
Northampton, certain Lands in, Treasurer to release and quitclaim to Enos Clark, Jr.,	274
“ Hotel Company, to incorporate,	193
“ Proprietors of certain Lands in, enabled to protect the same against Inundation,	157
“ State Lunatic Hospital at, Resolve in aid of,	699
Northbridge and Uxbridge, line between, changed,	80
Northern District of Berkshire, authorizing removal of the Office of Register of Deeds from Lanesborough to Adams,	474
“ District of Middlesex, relating to the Registry of Deeds for,	189
“ Eastern and Southern Districts, to fix the Salaries of the Dis- trict-Attorneys of,	559
Norwich and Worcester Railroad Company, State Loan to, in further addition to Act extending the time of,	596
Norwood, Frederick, and Joseph and Samuel K. Friend, to extend their Wharf,	120
Notes given by the Treasurer, Resolve concerning,	699
“ payable on demand, in addition to Act concerning,	530
O.	
Oak Grove Cemetery, Proprietors of, to incorporate,	85
Oaths and Affirmations, County Commissioners authorized to adminis- ter,	28
Observance of the Birthday of Washington, Resolves relative to,	258
“ of Certain Days, concerning,	59

Obstructions in the Ferry-way between New Bedford and Fairhaven, to prevent,	Page 602
Obtaining Property under false pretences, concerning the offence of,	452
Office of the Attorney-General, Resolves concerning,	278
" of the Register of Deeds for the Northern District of Berkshire, authorizing removal from Lanesborough to Adams,	474
Officers, certain Public, in addition to Act establishing the Salaries of,	619
" Civil, concerning the Election of,	88
" " Election of, in addition to Act concerning,	527
" of Corporations and other persons, to punish Frauds in,	65
" County, and Clerks of Courts, concerning the Election of,	98
" Legislature, and the Executive Council, Resolves for the pay of,	687
" of the Legislature, and the Legislature, Resolve for the pay of, monthly,	257, 657
" of the State Prison, certain, relating to Salaries of,	534
" Town, repeal of chapter 283 of 1853, relating to,	103
Offices, certain, concerning Appointment of Members of the Legislature to,	529
" in the State House, Council and Legislature, Resolves providing for the Contingent Expenses of,	294, 664
Official Information, Resolves authorizing the Publication of Laws,	666
Oil Company, Coup, name of the United States Chemical Manufacturing Company changed to,	38
Old Colony Bank, in Plymouth, to increase the Capital Stock of,	523
Omnibus Company, Boston and North Cambridge, to incorporate,	113
Onions, Sale of, concerning,	197
Organization of Corporations, for Educational, Charitable and Religious purposes, relating to,	126
" " for Educational, Charitable and Religious purposes, to amend chapter 215 of the Laws of 1856, relating to,	436
" " limiting the time for,	194
Orthodox Congregational Society, in Danvers, Third, name changed to Maple Street Church and Society,	467
Overseers of Gay Head, Resolve on Petition of,	672
" of Houses of Correction, and Keepers of Jails, to secure Returns from,	636
" of the Poor authorized to remove Destitute and Neglected Children to Almshouses,	503
" of the Poor of the Town of Newbury, Resolve on the Petition of,	262
Oxford Bank, to increase the Capital Stock of,	525
" Hotel Company, to incorporate,	85
Oysters in Apponigansett River, Abner R. Tucker and others, to plant, Benjamin W. Miller to plant, in Taunton Great River, in addition to certain Acts authorizing,	478 - <i>add.</i>
" James S. Chace to plant, in Taunton Great River, in addition to Act authorizing,	45 -
" Perry G. Macomber to plant, in Pocasset,	38 x
" Perry G. Macomber to plant, in Pocasset,	507 - <i>add.</i>

P.

Pacific Mutual Insurance Company, to incorporate,	Page 41
Pages and Messengers of the two branches of the Legislature, Resolve concerning the pay of,	272
“ Messengers and Door-keepers of the General Court, Resolve relating to the compensation of,	293, 681
Papers and Documents of the Senate, Resolve concerning,	701
“ of the House of Representatives, Catalogue of, and Index to Journals, Resolve to complete,	663
“ and Journals of the House of Representatives, Resolve concerning,	262, 270
“ “ of the Senate, Resolve concerning,	294
Parents who are living separate, respecting the custody of their Minor Children,	14
Parish, First Congregational, in West Cambridge, to enclose their Land,	107
“ Second, in West Newbury, concerning Parsonage Lands of,	620
“ “ “ to dispose of their Burial Grounds,	43
Parkhurst, George, deceased, David Low to extend the Wharf belonging to the Heirs of,	112
Parsonage Lands of the Second Parish in West Newbury, concerning,	620
Partition, concerning Petitions for,	502
Passports, authorizing,	558
Pasturing of Cattle or other Animals in Streets or Ways, relating to,	453
Patillo, James H. and others, Resolve on Petition of,	278
Paupers, State, and Alien Passengers, relating to the Board of Commissioners on,	230
“ “ concerning,	97
“ “ to repeal section second of chapter 171, of the Acts of 1856, concerning,	479
Pay of the Chaplain of the House of Representatives, Resolve for,	697
Pay of the Chaplains of the Legislature, Resolves for,	678, 785
Pay of the Commissioners for the Consolidation of the General Statutes, Resolve for,	684
Pay of the Council, Senate and House of Representatives, Resolves providing for,	289
Pay of the Door-keepers, Messengers and Clerks of the General Court, Resolve for,	785
Pay of the Door-keepers, Messengers and Pages of the General Court, Resolve relating to,	293, 681
Pay of the Legislature and its Officers, monthly, Resolve for,	257, 657
Pay of Members of the Executive Council, the Legislature and its Officers, Resolves for,	687
Pay of Messengers and Pages of the Legislature, Resolve concerning,	272
Payment of certain General Expenses, not otherwise provided for, Resolve for,	664
“ of Contingent Expenses of the Legislature, Council and Offices in the State House, Resolve for,	294

Payment of Fines and Forfeitures in Criminal Cases, regulating,	Page 466
" of State Loan to the Eastern Railroad Company, extending time of,	553
Peabody, Ephraim, authorizing J. Ingersoll Bowditch, Executor, to sell certain Real Estate of,	659
Peat Coal Company, Massachusetts, to incorporate,	501
Peat Company, Worcester, to incorporate,	128
Pemberton Mill, to increase the Capital Stock of,	432
Pembroke, Fish Ways at the several Dams on Barker's River in the Town of, relating to,	43
Pepperell, part of Groton annexed to,	510
Perkins, John and others, to build a Wharf,	435
Perkins Mills and Dwight Manufacturing Company, concerning, and to increase the Capital Stock of the latter,	12
Personal Estate of Elizabeth Lewis, deceased, Resolve on the Petition of Lydia V. Dickson, praying that she may receive,	290
" Property, Mortgages of, in addition to Act concerning,	101
" " leased or hired, to prevent the Fraudulent Sale of,	504
Persons committed to the State Lunatic Hospitals not having a known settlement in the Commonwealth, relating to,	544
" suspected of Embezzlement, in certain cases, relating to exami- nation of, and the accounts of Executors, Administrators, and Guardians,	414
" under Sentence of Death, to repeal certain Acts concerning,	427
Petitions for Partition, concerning,	502
Pew, John, to extend his Wharf in Gloucester,	30
Phillips Wharf Company, in Salem, to incorporate,	149
Physician and Surgeon of the State Prison, relating to the Salary of,	84
Piles, James A. Knowlton to drive, on Blaney's Beach, in Swampscott,	458
Pilgrim Society of Plymouth, Resolve concerning,	293
Pilotage, Compulsory, exempting certain classes of Vessels from,	555
Pitcher's Bridge, in Huntington, relating to,	471
Pitman, Henry F., to extend his Wharf,	473
Pittsfield Bank, to increase the Capital Stock of,	552
" Police Court in, additional to Act establishing,	4
Planing Machine, Woodworth's, Resolves relating to,	274
Planting of Shade Trees, concerning,	190
Pleasant Bay, Fishery in, to protect,	145
Plymouth, County Commissioners of, to lay out a Highway and con- struct a Bridge over Wewantitt River,	90
" " House of Correction and Jail in, relative to,	80
" " Probate Court established in North Bridgewater, and time of holding a Probate Court at Middlebor- ough, changed,	64
" Kingston and Duxbury, Menhaden Fishery in the Towns of, to protect,	455
" Library, to incorporate,	196
Plympton Branch Railroad Company, to change the name of,	17

INDEX.

xlvii

Pocha Pond Meadow and Fishing Company in Edgartown, in addition to Act incorporating,	Page 24
Poisons, Deadly, relating to Sale of,	627
Police Court, in Adams, in addition to Act establishing,	639
“ “ in Blackstone, to abolish,	42
“ “ in Chicopee, in addition to Act establishing,	8
“ “ in Framingham, to establish,	468
“ “ in Lowell, concerning,	614
“ “ in Milford, concerning,	612
“ “ “ in addition to Act establishing,	193
“ “ in Pittsfield, in addition to Act establishing,	4
“ “ in Springfield, for the better establishment of,	422
“ “ in Worcester, concerning,	98, 404
“ Courts, concerning,	434
“ “ Jurisdiction of, concerning,	505
Pond Company, Caleb's, to incorporate,	530
“ “ Lagoon, to incorporate,	455
Poor, Overseers of, authorized to remove Destitute and Neglected Children to Almshouses,	503
“ “ of the Town of Newbury, Resolve on the Petition,	262
Porter, Albert H., Resolve on the Petition of,	275
Postage, Cheap, and the Franking Privilege, Resolves concerning,	288
Potato Disease, concerning the Discovery of a Remedy for,	571
“ Rot, to repeal chapter 18 of Resolves of 1851, concerning,	434
Power Press Manufacturing Company, S. P. Ruggles, in addition to Act incorporating,	102
“ of Sale, Real Property obtained under Mortgage Deeds containing, to perpetuate Evidence of Title to,	564
Powers of County Commissioners in laying out Ways across Railroads, relating to,	633
Prayer Book Society, Margaret Coffin, to incorporate,	69
Preservation of Cape Cod Harbor, Resolve concerning,	694
“ of Municipal Records, Act for,	461
Priest, John L. and others, Resolve on Petition of,	259
Print Works, American, to incorporate,	438
Printing for the Commonwealth, Resolve concerning	294
“ State, Resolve in relation to,	695
Prison, State, Act for the removal of Insane Convicts from, in addition to,	75
“ “ concerning,	471
“ “ concerning the Discipline of,	629
“ “ late Warden and Deputy-Warden, Resolve in favor of the Families of,	660
“ “ to provide for the approval of Bills of Purchases for,	609
“ “ relating to Salaries of certain Officers of,	531
“ “ Resolve in favor of,	288, 695
“ “ Resolves in relation to,	696
“ “ Salary of the Physician and Surgeon, relating to,	84
Private Property, relating to the unlawful use of,	21

Probate, Bonds of Registers, to amend the 21st section of the 83d chapter of the Revised Statutes, relative to,	Page-405
" Court for the County of Barnstable, to establish Terms of,	470
" " in the County of Bristol, changing the time of holding a Term of,	195
" " for the County of Bristol, to establish Terms of,	506
" " for the County of Middlesex, to establish the Terms of,	451
" " at Groton, changing the time of holding,	197
" " in Middleborough, in the County of Plymouth, time of holding changed,	64
" " in North Andover, in the County of Essex, establishing,	3
" " in North Bridgewater, in the County of Plymouth, established, and time of holding Probate Court at Middleborough, changed,	64
" Courts in the County of Berkshire, concerning,	405
" " in the County of Dukes County, in addition to Act concerning,	194
" " in the County of Worcester, relating to,	91
" " in relation to certain Proceedings in,	122
" Judges of, in addition to Act concerning,	195
" Register of, for the County of Dukes County, concerning the Salary of,	103
Propagation of Fish, Artificial, Resolve concerning,	277
Propeller Company, Nantucket, to incorporate,	129
Property of Insolvent Debtors, Act of 1836, regulating the Assignment and Distribution of, repealed,	91
" of Married Women, in addition to Act to protect,	598
" obtaining under False Pretences, concerning the offence of,	452
" Personal, leased or hired, to prevent the Fraudulent Sale of,	504
" " Mortgages of, in addition to Acts concerning,	101
" Private, relating to the unlawful use of,	21
" Real, obtained under Mortgage Deeds, containing a Power of Sale, to perpetuate the Evidence of Title to,	564
Proprietors of the Catholic Cemetery in Dorchester, in addition to Act incorporating,	569
" of certain Lands in Northampton, enabled to protect the same against Inundation,	57
" of the City Hotel in Worcester, in addition to Act incorporating,	102
" of the Holyoke and Willimansett Bridge, to incorporate,	532
" of India Wharf, in addition to Act incorporating,	464
" of Lawrence Bridge, in addition to Act incorporating,	419
" of Oak Grove Cemetery, to incorporate,	85
" of Roxbury, Maine, Resolve on Petition of Samuel Houghton, Agent,	660
" of the Rural Cemetery in Worcester, in addition to Act incorporating,	32
" of the Sunderland Bridge, in addition to Act incorporating,	462

INDEX.

xlix

Protection of the Public at Railroad Crossings,	Page 159
Provincetown and Truro, Towns of, to construct a Bridge over East Harbor,	220
Proxies in Banks, to regulate the use of,	595
Public Buildings, School-houses, concerning,	556
“ Cemetery of the City of Roxbury, relating to,	195
“ Debt, relating to the Extinguishment of,	534
“ Institutions for the City of Boston and County of Suffolk, to establish a Board of Directors of,	426
“ Library in the City of Boston, relating to,	401
“ Officers, certain, in addition to Act establishing Salaries of,	619
“ Reports and Documents, in relation to,	428
“ Schools, concerning Branches to be taught in, and for other purposes,	542
“ Schools, rights of Children under Guardianship to attend, in relation to,	92
“ Schools, rights of Children of Non-resident Parents to attend,	480
“ Ways, relating to Land taken for,	481
Publication and Distribution of Professor Hitchcock's Geological Report, Resolve providing for,	694
“ of Laws and Official Information, Resolves authorizing,	666
“ of the State Laws, Resolve concerning,	292
Punchard Free School in Andover, in addition to Act incorporating Trustees of,	39
Punishment of Fraudulent Debtors, Imprisonment for Debt, to amend and consolidate the several Acts concerning,	489
Purchase and Sale of Spirituous Liquors by City and Town Agents, concerning,	638
Purchases for the State Prison, to provide for the approval of Bills of,	609

Q.

Quartermaster-General's Department, Resolves concerning,	262, 662
Quincy Fire and Marine Insurance Company, in addition to Act incorporating,	467
“ part of Dorchester annexed to, additional Act,	500
“ part of Braintree annexed to,	72
“ Stone Bank, in Quincy, to increase the Capital Stock of,	524

R.

Railroad Branch, Agricultural, extending the time for the construction of,	157, 463
“ “ into Boston, to extend time of constructing, by the Boston and Lowell Railroad Corporation,	93
“ “ Dorchester and Milton, concerning,	508
“ “ East Walpole, extending the time for construction of,	601
“ “ Newburyport Railroad Company to construct, in addition to Act authorizing,	45
“ “ Plympton, to change the name of,	17

Railroad Corporation, Agricultural Branch, extending the time for construction of road,	Page 463
“ “ Amherst and Belchertown, to extend the time for locating and constructing road,	44
“ “ Barre and North Brookfield, to amend the Char- ter of,	498
“ “ Barre and North Brookfield, to extend the time for constructing road,	16
“ “ Boston, Barre and Gardner, concerning,	60, 459
“ “ Boston and Chelsea, (Horse Road,) concerning,	73, 441
“ “ Boston and Lowell, additional Branch Track in the City of Lowell authorized,	68
“ “ Boston and Lowell, amending Act passed May 21, 1855, authorizing alteration in the loca- tion and construction of a Bridge,	23
“ “ Boston and Lowell, and certain Railroad Com- panies connected therewith, concerning,	478
“ “ Boston and Lowell, extending time for the con- struction of a Branch Track in Lowell, by,	641
“ “ Boston and Lowell, and the Salem and Lowell, concerning,	91
“ “ Boston and Lowell, time of construction of Branch Railroad into Boston, extended,	93
“ “ Boston and Maine, and the Danvers, concerning,	611
“ “ Boston and New York Central, concerning,	15, 425
“ “ Boston and New York Central, County Com- missioners of Norfolk to construct a Bridge across the road, in Dorchester,	39
“ “ Boston and New York Central, extending the time for the construction of road,	18
“ “ Boston and Worcester, to change the location of a portion of their road, and for other pur- poses,	485
“ “ Broadway, (Horse Road,) in addition to Act in- corporating,	192
“ “ Broadway, (Horse Road,) concerning,	549
“ “ Brookline, (Horse Road,) to incorporate,	648
“ “ Charles River and the New York and Boston, confirming the Union of, and extending the time for locating and constructing,	153
“ “ Connecticut River, to extend and unite the Hampshire and Hampden Railroad with,	573
“ “ Danvers, and the Boston and Maine Railroad, concerning,	611
“ “ Dorchester Avenue, (Horse Road,) in addition to Act incorporating,	34, 202
“ “ Dorchester Avenue, (Horse Road,) concerning,	545
“ “ Dorchester and Milton Branch, concerning,	508

INDEX.

li

Railroad Corporation, Dorchester and Milton Extension, in addition to Act establishing,	Page 77
“ “ Dorchester and Roxbury, (Horse Road,) to incorporate,	603
“ “ East Walpole Branch, to extend the time of constructing road,	601
“ “ Eastern, concerning the location of the road of,	242
“ “ Eastern, to extend the time of payment of the State Loan to,	553
“ “ Fall River and Warren, to incorporate,	420
“ “ Fitchburg, concerning,	76
“ “ Hampshire and Hampden, authorized to extend their road,	104
“ “ Hampshire and Hampden, to extend and unite the road with the Connecticut River Railroad,	573
“ “ Lebanon Springs, extending the time for construction of road,	403
“ “ Malden and Melrose, (Horse Road,) to incorporate,	238
“ “ Medford and Charlestown, (Horse Road,) in addition to Act incorporating,	406
“ “ Middlesex, (Horse Road,) concerning,	53, 131
“ “ Milford and Woonsocket, concerning,	463
“ “ Millbury and Southbridge, concerning,	423
“ “ Millbury and Southbridge, to extend the time of construction,	12
“ “ Mystic River, extending time for location and construction of road,	457
“ “ New York and Boston, and the Charles River, confirming the Union of, and extending the time for construction,	153
“ “ New York and Boston, to extend the time for locating and constructing road,	428
“ “ Newburyport, to construct a Branch Railroad, in addition to Act authorizing,	45
“ “ Newton, (Horse Road,) to incorporate,	624
“ “ Newton, (Horse Road,) to incorporate, additional Act,	646
“ “ Norwich and Worcester, State Loan to, in further addition to Act extending the time of,	596
“ “ Plympton Branch, to change the name of,	17
“ “ Rockport, to extend the time for locating and constructing road,	47
“ “ Somerville, Horse, to incorporate,	600
“ “ Springfield and Farmington Valley, to incorporate,	93
“ “ Suffolk, (Horse Road,) to incorporate,	630
“ “ Troy and Greenfield, to change location,	153
“ “ Vermont and Massachusetts, concerning,	30

Railroad Corporation, Vermont and Massachusetts, in addition to Act concerning,	Page 148
“ “ Waltham and Watertown, concerning,	488
“ “ Ware River, to extend the time for building the road,	477
“ “ West Cambridge, Horse, to incorporate,	593
“ “ West Roxbury, (Horse Road,) in addition to Act incorporating,	564
“ “ West Roxbury, (Horse Road,) to incorporate,	116
“ “ Western Avenue, (Horse Road,) to extend the time for constructing road,	16
“ “ Winnisimmet, (Horse Road,) to incorporate,	559
“ Corporations, Annual Reports of, in addition to Acts relating to,	92
“ “ connected with the Boston and Lowell Railroad, concerning,	478
“ Crossings, for the better protection of the Public at,	159
“ Mortgages, relating to Trustees under,	520
“ Mutual Fire Insurance Company, to accept the surrender of Charter,	29
“ Mutual Fire Insurance Company, New England, to incorporate,	29
“ Mutual Fire Insurance Company, New England, in addition to Act incorporating,	551
“ Returns, concerning,	513
Railroads, in addition to Act regulating the use of,	636
“ Annual Returns of, concerning,	574
“ Boston and Lowell, the Fitchburg and the Grand Junction, Bridge in Somerville, at the intersection of, concerning,	232
“ (Horse,) concerning the Location of,	535
“ Ways, across, relating to Powers of County Commissioners in laying out,	633
Railway, Marine, Parker, Joseph B. and Elias Burnham, authorized to extend,	31
Rainsford Island Hospital, relating to Inspectors of,	598
“ “ “ Resolve in favor of,	681
“ “ and Taunton, State Hospitals at, Resolve in aid of,	275
Rand, E. S., W. C. Barstow, B. C. Ward and C. C. Gilbert, to extend their Wharf,	22, 45
Read, Abraham and others to build a Wharf, in Fall River,	432
Real Property obtained under Mortgage Deeds containing a Power of Sale, to perpetuate Evidence of Title to,	564
Record of Attachments, relating to,	123
Records, Colony, of New Plymouth and Massachusetts, in addition to Resolve concerning,	700
“ Colony, of New Plymouth and Massachusetts, Resolve concerning,	701
“ Massachusetts, Resolve relating to,	260, 291
“ Municipal, for the better preservation of,	461
“ Town or City, authorizing Transcripts of,	453

INDEX.

hii

Reed, Samuel H., Resolve in favor of,	Page 671
Reform School for Boys, State, Resolve concerning,	291
“ “ “ State, Resolve in favor of,	677
“ “ “ and State Industrial School for Girls, relating to the support of certain Inmates of,	84
“ “ for Girls, State, additional to Act establishing,	33
“ “ “ State, to change the name to State Industrial School for Girls,	31
“ “ “ State, Resolve in favor of,	265
“ “ “ State, Resolve in favor of John H. Wilkins, H. B. Rogers and Francis B. Fay, for services as Commissioners,	678
Register of Deeds for the County of Suffolk, to provide for the election of,	62
“ of Deeds for the Northern District of Berkshire, authorizing removal of Office from Lanesborough to Adams,	474
“ of Probate for the County of Dukes County, concerning the Salary of,	103
Registers and Judges of Insolvency Courts, establishing Salaries of,	621
“ of Probate, Bonds of, to amend the 21st section of 83d chapter of the Revised Statutes, relative to,	405
Registration Reports, Resolve relative to,	697
Registry of Deeds in the Town of Littleton, concerning,	60
“ “ for the Northern District of Middlesex, relating to,	189
Relief and Submarine Company, Boston, name of the Boston Submarine and Wrecking Company changed to, and Capital Stock increased,	422
Religious, Charitable and Educational purposes, Corporations for, relat- ing to the Organization of,	126
“ Charitable and Educational purposes, Organization of Corpo- rations for, to amend Act relating to,	436
Remedy for the Potato Disease, concerning the Discovery of,	571
Removal of the Remains of the Dead from Burial Ground in Natick, Resolve authorizing,	675
Repairs and Furniture for the State House, Resolve concerning,	268, 690
“ on the State House, Resolve for,	293
Repeal of the Cod Fishing Bounty, proposed, Resolves concerning,	657
Report, Annual, of the Secretary of the Board of Agriculture, Resolves concerning,	268
“ Hitchcock's Geological, Resolve providing for the Publication and Distribution of,	694
Reports, Annual, of Railroad Corporations, in addition to Acts relating to,	92
“ and Documents, Public, in relation to,	428
“ Registration, Resolve relative to,	697
Representatives, to apportion, to the several Counties,	755
“ in Congress, Election of, concerning,	145
“ in the General Court, Elections of, concerning,	780
“ House of, Council and Senate, Resolves providing for the pay of,	289
“ House of, Index to the Journals, and Catalogue of the Papers, Resolve to complete,	663

Representatives, House of, Journals and Papers, Resolves concerning,	262, 270
" House of, Resolve in favor of the late Acting-Clerk,	661
" House of, Resolve for Pay of the Chaplain,	697
Reservoir and Mill Dams, in addition to Act relating to,	509
Reservoirs and Dams, concerning wilful and malicious injuries to,	507
Residuary Legatees, in relation to form of Bond to be given by Executors who are,	456
Resolutions of the Legislature of Connecticut, certain, Resolves in relation to,	292
Returns of Elections, concerning,	514
" from Keepers of Jails and Overseers of Houses of Correction, to secure,	636
" Railroad, concerning,	513
" of Railroads, Annual, concerning,	574
" of Votes, in relation to,	189, 640
Revenue, Treasurer to borrow Money in anticipation of,	258, 658
Richards, Williams B. and others, Resolve on Petition of, for confirmation of partition of Real Estate,	687
Richardson, James W., Resolve on Petition of,	262
Rights of Children under Guardianship to attend the Public Schools, in relation to,	92
" " of Non-resident Parents to attend Public Schools, defining,	480
Rochester, Fourth Congregational Precinct, Act to change the name of, and for other purposes,	46
Rockport Railroad, to extend the time for locating and constructing,	47
Regers, Francis P. H. and Kate E., Resolve on Petition of,	690
" Henry B., Donation to the State Industrial School for Girls, concerning,	549
" H. B., John H. Wilkins and Francis B. Fay, Resolve in favor of,	678
Roxbury Fire Department, relating to,	528
" Gas Light Company, relating to,	485
" Institute, to incorporate,	87
" Maine, Proprietors of, Resolve on Petition of Samuel Houghton, Agent,	660
" Public Cemetery of the City of, relating to,	195
Ruggles, S. P., Power Press Manufacturing Company, in addition to Act incorporating,	103
Rural Cemetery in Worcester, Proprietors of, in addition to Act incorporating,	32
Russell, Abraham, Resolve relating to the Estate of,	696

S.

Sabbath School Society, Mass., in addition to Act incorporating,	425
" " Union, Universalist, to incorporate,	6
Salaries of certain Officers of the State Prison, relating to,	534
" of certain Public Officers, in addition to Act establishing,	619

INDEX.

iv

Salaries of the District-Attorneys of the Northern, Eastern and Southern Districts, to fix,	Page 559
“ of Judges and Registers of the Courts of Insolvency, established,	621
“ of the Justices of the Supreme Judicial Court, to establish,	7
Salary of Assistant-Clerk of the Superior Court of Suffolk County, to establish,	468
“ of Clerk of Courts in Hampden County, established,	620
“ of the District-Attorney of the Middle District, in relation to,	161
“ of the District-Attorney of the South-Eastern District, to fix,	201
“ of the Physician and Surgeon of the State Prison, in relation to,	84
“ of the Register of Probate for the County of Dukes County, concerning,	103
Sale of Adulterated Milk, to punish Fraud, by,	130
“ of Deadly Poisons, relating to,	627
“ Fraudulent, of Personal Property, leased or hired, to prevent,	504
“ of Onions in the Commonwealth, concerning,	197
“ Power of, Real Property obtained under Mortgage Deeds containing, to perpetuate Evidence of Title to,	564
“ of Spirituous Liquors by City and Town Agents, concerning,	638
Salem, Central Baptist Society in, changing the name of the Second Baptist Society, and the time of their Annual Meeting,	14
“ Charitable Marine Society, Resolve on Petition of Nathaniel Appleton and others, relative to,	276
“ City of, in further addition to Act establishing,	14
“ and Lowell and the Boston and Lowell Railroad Companies, concerning,	91
“ Marine Insurance Company, to incorporate,	5
“ Mechanic Hall Corporation, in addition to Act incorporating,	627
“ Second Baptist Society in, to change the corporate name and the time of their Annual Meeting,	14
“ and South Danvers, new boundary line between, established,	74
“ State Normal School-house at, concerning,	280
“ Young Men’s Union, to incorporate,	403, 445
Salisbury Mills, to incorporate,	57
Sandwich and Wareham, for the preservation of Fish in Buzzard’s Bay, within the Towns of,	102
Savings Bank, Boston Five Cents, to hold Real Estate,	440
“ “ Franklin, in Pawtucket, to incorporate,	431
“ Institution for, Springfield, relating to,	431
School Agents and Normal Schools, Resolve in addition to Resolves of 1855 in favor of,	694
“ of Agriculture, Massachusetts, to incorporate,	152
“ Committees, concerning vacancies in,	51, 614
“ “ Election of, provided for,	619
“ of Design for Women, New England, Resolve in aid of,	291
“ “ “ New England, additional Resolve in aid of,	293
“ District, Hopland, in addition to Act incorporating part of Lee into a School District,	516

School Districts, to repeal chapter 153 of the Acts of 1853, concerning, . . .	Page 602
" Hitchcock Free Grammar, name of the Trustees of the Brimfield Free Grammar School changed to,	231
" Houses, and other Public Buildings, concerning,	556
" " State Normal, at Bridgewater, Westfield, Framingham and Salem, Resolves concerning,	280
" Punchard Free, in Andover, in addition to Act incorporating Trustees of,	39
" State Industrial, for Girls, changing the name of the State Reform School for Girls to,	31
" " " for Girls, concerning Donation of Henry B. Rogers to,	549
" " " for Girls, Resolve concerning,	678
" " " for Girls, Resolve in favor of,	277
" " " for Girls, and the State Reform, for Boys, relat- ing to support of certain inmates of,	84
" " Reform, for Boys, Resolve concerning,	291
" " " for Boys, Resolve in favor of,	677
" " " for Boys, and State Industrial, for Girls, relating to support of certain inmates of,	84
" " " for Girls, additional to Act establishing,	33
" " " for Girls, to change the name to the State Indus- trial School for Girls,	31
" " " for Girls, Resolve in favor of,	265
" " " for Girls, Resolve in favor of John H. Wilkins, H. B. Rogers and Francis B. Fay, for services as Commissioners,	678
" Trustees of the Brimfield Free Grammar, name changed to Hitch- cock Free Grammar School,	231
Schools, Common, relating to,	528
" Normal and School Agents, in addition to Resolves of 1855, in favor,	694
" Public, concerning Branches to be taught in, and for other pur- poses,	542
" " defining the Rights of Children of Non-resident Parents to attend,	480
" " relative to Rights of Children under Guardianship to attend,	92
" State Normal, Resolves concerning,	691
" Superintendents of, in addition to Act relating to,	150
Scientific Survey of Boston Harbor, Resolves relative to,	264
Seudder, Charles, Resolve on Petition of,	265
Second Baptist Society in Salem, changing the name and the time of their Annual Meeting,	14
" Parish in West Newbury, authorized to dispose of their Burial Grounds,	43
" " " " concerning the Parsonage Lands of,	620
Secretary of the Board of Agriculture, Resolves concerning the Annual Report of,	268

INDEX.

lvii

Secretary of the Commonwealth to furnish certain Documents, Resolve authorizing,	Page 286
“ “ “ Resolve in favor of the Department of,	281
Selectmen of Dorchester, Resolve on Petition of,	674
“ of Marshpee, Resolves on Petition of,	261
Seminary, Williston, in addition to Act incorporating,	162
Senate, Documents and Papers of, Resolve concerning,	701
“ House of Representatives and Council, Resolves providing for the pay of,	289
“ Journals, General Index of, Resolve concerning,	701
“ Journals and Papers of, Resolve concerning,	294
Senatorial Districts, to arrange into Eight Districts for the choice of the Council,	780
Senators, to divide the Commonwealth into Forty Districts, for the choice of,	776
Sentence of Death, Persons under, to repeal certain Acts concerning,	427
September Meeting of the Commissioners of Middlesex County, to change the place of holding,	427
Sessions of the Legislature, Resolve to amend the Constitution relative to limiting,	703
Sewers and Drains in the City of Boston, concerning,	559
Shade Trees, Cities and Towns authorized to set out,	471
“ “ concerning the planting of,	190
Shelburne Falls Bank, to incorporate,	200
Sheriffs and their Deputies, in relation to,	108
Ship-Owners and Mariners, to protect, from imposition,	487
Shoals and Lands, certain, in the Harbor and City of New Bedford, to cede to the United States Jurisdiction over, and for other purposes,	51
“ “ certain, in the Harbor and City of New Bedford, Jurisdiction over, ceded to the United States, additional Act,	473
Shumway, S., Resolve in favor of,	692
Sidewalks of Cities, relating to removal of Snow and Ice from,	442
Silver Lake Ice Company, name of the Plympton Branch Railroad Company changed to,	17
Simpson's Patent Dry Dock Company, to incorporate,	10
Skunk Creek in Somerset, County Commissioners of Bristol to lay out a Highway and construct a Bridge over,	150
Small, Francis, to extend his Wharf,	37
Smith, Benjamin, a Soldier of the Revolution, Resolve on Petition of,	662
Snow and Ice, relating to removal of, from Sidewalks of Cities,	412
Societies, Agricultural, which receive the Bounty of the State, in addition to Act concerning,	105
Society, Amesbury Street Baptist, to change the name and legalize the doings of,	237
“ Central Baptist, in Salem, changing the name of Second Baptist Society and the time of their Annual Meeting,	14

Society of the Cincinnati of Massachusetts, Resolve on the Petition of,	Page 263
“ Congregational, and Church in Marion, name of the Fourth Congregational Precinct, in Rochester, changed to,	46
“ Congregational, in the Second Precinct, in Attleborough, additional to Act incorporating,	70
“ Eastern Hampden Agricultural, to incorporate,	88
“ Eliot City Mission, of Roxbury, to incorporate,	81
“ Evangelical Baptist Benevolent and Missionary, to incorporate,	503
“ Female Benevolent, at South Danvers, to incorporate,	33
“ Female Medical Education, to change the name to New England Female Medical College and reorganize the same,	115
“ First Baptist, in Lawrence, name of the Amesbury Street Baptist Society changed to,	237
“ First Baptist, in Southbridge, Resolve on Petition of,	674
“ First Congregational, of Winchester, name of South Congregational Society, of Woburn, changed to,	7
“ General Charitable, of Newburyport, to incorporate,	204
“ Independent Benevolent, in Newburyport, to incorporate,	124
“ Ladies' Benevolent, of Newbury, to incorporate,	129
“ Ladies' Howard, of Nantucket, to incorporate,	147
“ Margaret Coffin Prayer Book, to incorporate,	69
“ Massachusetts Historical, in relation to,	430
“ Massachusetts Homœopathic Medical, to incorporate,	162
“ Massachusetts Sabbath School, in addition to Act incorporating,	425
“ Nantucket Agricultural, to incorporate,	15
“ Pilgrim, of Plymouth, Resolve concerning,	293
“ for relief of Aged Women in Salem, to incorporate,	241
“ Second Baptist, in Salem, changing the name and the time of their Annual Meeting,	14
“ Salem Charitable Marine, Resolve on Petition of Nathaniel Appleton and others relative to,	276
“ South Congregational, of Woburn, name changed and authorized to hold Property,	7
“ Third Orthodox Congregational, in Danvers, name changed to Maple Street Church and Society,	467
“ Worcester South Agricultural, Resolve in favor of,	258
Solier, William, Cyrus and Hannah P. Mason, Resolve on the Petition of,	267
Somerset, Highway and Bridge over Skunk Creek, in the Town of, County Commissioners of Bristol, to lay out and construct,	150
Somerville and Cambridge, altering boundary line between, and annexing portions of each to the other,	76
“ Horse Railroad Company, to incorporate,	600
South Berkshire Institute Association, to incorporate,	193
“ Congregational Society, of Woburn, to change the name and authorize it to hold Property,	7
“ Danvers and Danvers, determining the boundary line between,	151
“ “ Female Benevolent Society at, to incorporate,	33

INDEX.

lix

South Danvers Mutual Fire Insurance Company, name of the Danvers Mutual Fire Insurance Company changed to,	Page 22
“ “ and Salem, new Boundary Line between established,	74
“ Eastern District, to fix the Salary of the District-Attorney of,	201
“ Reading Hotel Company, to incorporate,	115
“ “ part of the Town of Stoneham annexed to,	48
“ Scituate and Hanover, determining the boundary line between,	509
“ “ “ Resolves in relation to Town Lines be- tween,	286
Southbridge, First Baptist Society, Resolve on Petition of,	674
“ “ Resolve in favor of the Town of,	270
Southern, Eastern and Northern Districts, to fix the Salaries of the District-Attorneys of,	559
Special Messages,	317, 735
Spirituos Liquors, concerning Purchase and Sale of, by City and Town Agents,	638
Springfield, City of, in addition to Act to establish,	89
“ “ and Farmington Valley Railroad Company, to incorporate,	93
“ “ Institution for Savings, relating to,	431
“ “ Police Court of, for the better establishment,	422
State Almshouse, at Bridgewater, Resolve in favor of,	292, 698
“ “ at Monson, Resolve relating to,	681
“ “ at Tewksbury, Resolve in favor of,	691
“ Almshouses, Resolve in favor of,	277
“ Bounty, Agricultural Societies which receive, in addition to Act concerning,	105
“ Cabinet, Resolve concerning,	697
“ Farm at Westborough, Resolves in favor of,	279, 665
“ Hospitals at Rainsford Island and Taunton, Resolve in aid of,	275
“ House, Commissioners on, Resolve in favor of,	692
“ “ concerning,	442
“ “ Offices in, Council and Legislature, Resolve providing for the Contingent Expenses of,	294, 664
“ “ Repairs and Furniture for, Resolve concerning,	268, 690
“ “ Resolve relative to the Enlargement of,	261
“ “ Resolve for Repairs on,	293
“ Industrial School for Girls, to change the name of the State Re- form School for Girls to,	31
“ Industrial School for Girls, concerning Donation of Henry B. Rogers, to,	549
“ Industrial School for Girls, Resolve concerning,	678
“ Industrial School for Girls, Resolve in favor of,	277
“ Industrial School for Girls and the State Reform School for Boys, relating to the support of certain Inmates of,	84
“ Laws, Resolve concerning the publication of,	292
“ Library, Resolve in relation to,	265
“ “ Resolves in aid of,	679
“ Loan to the Eastern Railroad Company, to extend the time of pay- ment,	553

State Loan to the Norwich and Worcester Railroad Company, in further addition to Act extending the time of,	Page 596
“ Lunatic Hospital, at Northampton, Resolve in aid of,	699
“ “ “ at Taunton, Resolve in favor of,	698
“ “ Hospitals, establishing Boards of Trustees for, and in addition to Acts concerning Lunatic Hospitals,	160
“ “ “ relating to appointment of Trustees of,	16
“ “ “ relating to persons committed to, not having a known settlement in this Commonwealth,	544
“ Map, Resolves in relation to,	693
“ Normal School-houses at Bridgewater, Westfield, Framingham and Salem, Resolves concerning,	280
“ “ Schools, Resolves concerning,	691
“ Paupers and Alien Passengers, relating to the Board of Commissioners on,	230
“ “ concerning,	97
“ “ to repeal section second of chapter 171 of the Acts of 1856, relative to,	479
“ Printing, Resolve in relation to,	695
“ Prison, Act for the removal of Insane Convicts from, in addition to,	75
“ “ concerning,	474
“ “ concerning the Discipline of,	629
“ “ late Warden and Deputy-Warden, Resolve in favor of the Families of,	660
“ “ to provide for the approval of Bills of Pardons for,	609
“ “ Resolve in favor of,	288, 695
“ “ Resolves in relation to,	696
“ “ Salaries of certain Officers of, relating to,	534
“ “ Salary of the Physician and Surgeon, relating to,	84
“ Reform School for Boys, at Westborough, Resolve concerning,	291
“ “ “ for Boys, Resolve in favor of,	677
“ “ “ for Boys and the State Industrial School for Girls, relating to the support of certain Inmates of,	84
“ “ “ for Girls, additional to Act establishing,	33
“ “ “ for Girls, to change name to State Industrial School for Girls,	31
“ “ “ for Girls, Resolve in favor of,	265
“ “ “ for Girls, Resolve in favor of John H. Wilkins, H. B. Rogers and Francis B. Fay, for services as Commissioners,	678
“ Tax of \$599,982, to apportion and assess,	130
“ “ of \$899,973, to apportion and assess,	578
“ “ Treasurer to borrow Money in anticipation of,	279, 698
“ Teachers' Association, Massachusetts, Resolve in favor of,	673
Statistical Information and Decennial Census, in addition to the several Acts to secure,	26
Statutes, General, Resolve to pay the Commissioners for the Consolidation of,	684

INDEX.

lxi

	Page
Stay or Supersedas of Executions, in relation to ordering,	75
Steamboat Company, Boston and Kennebec, to incorporate,	50
Steam-power Company, Clinton, to incorporate,	17
Steamship Company, Boston and New Orleans, to incorporate,	146
“ “ Boston and New York, to incorporate,	505
Sterling Camp-Meeting Association, name of the Worcester District Methodist Episcopal Church Camp-Meeting Association changed to,	479
Stoddard, E. B., Resolve on Petition of,	672
Stoddard, Isaiah, Resolve in favor of,	291
Stoneham, part of the Town of, annexed to South Reading,	48
Stoughton, assessment of Taxes for 1854, in the Town of, to legalize,	83
Streets or Ways, pasturing of Cattle or other Animals in, relating to,	453
Sturgis, Henry P. and another, Resolve on Petition of,	677
Submarine and Wrecking Company, Boston, to change its name to Bos- ton Relief and Submarine Company, and increase its Capital Stock,	423
Suffolk County, Assistant-Attorney for, to establish the Office of,	35
“ “ and the City of Boston, Public Institutions for, to estab- lish a Board of Directors of,	426
“ “ Register of Deeds for, to provide for the Election of,	62
“ “ Superior Court of, Salary of Assistant-Clerk established,	468
“ “ Superior Court of, and the Court of Common Pleas, concerning,	245
“ “ Supreme Judicial Court in, establishing the Office of Assistant-Clerk,	20
“ Railroad Company, to incorporate,	630
Sunac, Foreign, Inspection of, to repeal Act providing for,	502
Sunner, Honorable Charles, Resolves concerning the recent Assault upon, at Washington,	285
Sunderland Bridge, in addition to Act incorporating Proprietors of,	462
Superintendents of Schools, in addition to Act relative to,	150
Superior Court of the County of Suffolk and the Court of Common Pleas, concerning,	245
“ “ of Suffolk County, Salary of Assistant-Clerk established,	468
Supersedas of Executions, in relation to ordering,	75
Supreme Judicial Court, in addition to the several Acts giving Jurisdic- tion in Equity to,	548
“ “ “ relating to the Jurisdiction of,	413
“ “ “ in Suffolk County, establishing the office of Assistant-Clerk,	20
“ “ “ Salaries of the Justices established,	7
Sureties, respecting the manner of surrendering their Principals in Bail Bonds, to amend the 49th chapter of the Revised Statutes,	18
Surgeon and Physician of the State Prison, in relation to the Salary of,	84
Survey, Scientific, of Boston Harbor, Resolves relative to,	264
Swampscott, Beaches in the Town of, concerning,	127
Swazey, John N., to extend his Wharf, in Lynn,	39

T.

Tarr, Daniel B. and others, to build a Wharf,	Page 461
Tarr, James G. and others, to extend their Wharf,	425
Taunton Bank, to increase the Capital Stock of,	527
" Great River, in addition to Act authorizing Benjamin W. Miller to plant Oysters in,	45
" " " in addition to Act authorizing James S. Chace to plant Oysters in,	38
" and Rainsford Island, State Hospitals, Resolve in aid of,	275
" State Lunatic Hospital at, Resolve in favor of,	698
Tax of \$599,982, to apportion and assess,	130
" of \$899,973, to apportion and assess,	578
" State, Treasurer to borrow Money in anticipation of,	279, 698
Taxation of Horses, relating to,	646
Taxes, Assessment of, in the City of Lynn in 1853 and 1854, in relation to,	82
" Assessment of, in the Town of Stoughton for 1854, to legalize,	83
" Assessment and Collection of, relating to,	154
" in the City of Boston, to repeal Act changing the time of assessing,	623
" Equalization of, Act for,	655
" for the several Counties, Resolve granting,	269, 661
Teachers' Association, Massachusetts State, Resolve in favor of,	673
Telegraph Company, Boston and Cape Cod Marine, to incorporate,	63
" " United States, to incorporate,	459
Tenney, Samuel N., Resolve on Petition of,	673
Tenney, Solon H., late Warden, and Galen C. Walker, late Deputy- Warden of the State Prison, Resolve in favor of the Families of,	660
Terms of the Probate Court in the County of Barnstable, to establish,	470
" of the Probate Court in the County of Bristol, to establish,	506
" of the Probate Court in the County of Middlesex, to establish,	451
Tewksbury and Caldwell, Resolve on Petition of,	276
Tewksbury, State Almshouse at, Resolve in favor of,	691
Third Orthodox Congregational Society in Danvers, name changed to Maple Street Church and Society,	467
Tillinghast, Nicholas, late Principal of the Normal School, at Bridge- water, Resolve in favor of the Widow and Child of,	280
Tisbury, Title of certain Lands in, confirmed to Jemima Easton and her Heirs, and other Indians of Deep Bottom,	120
Titicut Academy, of Middleborough, to incorporate,	246
Title of certain Lands in Tisbury, confirmed to Jemima Easton and her Heirs, and other Indians, of Deep Bottom,	120
" to Real Property obtained under Mortgage Deeds containing a Power of Sale, to perpetuate Evidence of,	564
Topsfield, Fisheries in Ipswich River in the Town of, to protect,	28
Town of Beverly, part of, annexed to Danvers,	457
" of Boxford, part of, annexed to Groveland,	31
" of Braintree, part of, annexed to Quincy,	72

INDEX.

Ixxiii

Town of Chelsea, reannexed to Boston,	Page 77
“ of Chilmark and the Indians of Gay Head, boundary line between, established and confirmed,	120
“ of Danvers and South Danvers, Determining the boundary line between,	151
“ of Dorchester, part of, annexed to Quincy, additional Act,	500
“ of Duxbury, part of, annexed to Kingston,	411
“ of East Bridgewater and Halifax, to establish the dividing line between,	438
“ of Groton, part of, annexed to Pepperell,	510
“ of Lynnfield and North Reading, to change the boundary line between,	572
“ of Mattapoisett, to incorporate,	537
“ of Somerville and City of Cambridge, portions of each annexed to the other,	76
“ of South Danvers and City of Salem, new boundary line between, established,	74
“ of South Scituate and Hanover, boundary line between, Resolves relative to,	236
“ of South Scituate and Hanover, determining the boundary line between,	509
“ of Stoneham, part of, annexed to South Reading,	48
“ of Uxbridge and Northbridge, changing boundary line between,	80
“ and City Agents, concerning Purchase and Sale of Spirituous Liquors by,	638
“ or City Records, authorizing Transcripts of,	453
“ Officers, Act of 1853, chapter 283, relating to, repealed,	103
Towns and Cities authorized to set out Shade Trees,	471
“ and Cities, to repeal Act incorporating into Mutual Fire Insurance Companies, at their election,	562
Track, Branch, in Lowell, extending time for the construction of, by the Boston and Lowell Railroad Corporation,	611
Trade, Boston Board of, Resolve in favor,	280
Transcripts of Town or City Records, authorizing,	453
Treasurer to borrow Money in anticipation of the Revenue,	258, 658
“ to borrow Money in anticipation of the State Tax,	279, 698
“ and Receiver-General to release and quitclaim to Enos Clark, Jr., certain Lands in Northampton,	274
“ Resolve concerning Notes given by,	699
Trees, Shade, Cities and Towns authorized to set out,	471
“ Shade, concerning the planting of,	190
Tremont Gas Light Company, to repeal Act incorporating,	156
“ Insurance Company, Act continuing,	3
Trials by the Court, respecting,	615
Trinity Church, in Bridgewater, to incorporate the Trustees of the Funds of,	128
Troy and Greenfield Railroad Company, to change location,	153
“ Indians, Resolve in aid of,	671

Truro and Provincetown, Towns of, to construct a Bridge over East Harbor,	Page 220
Trustee Process, relating to,	536
Trustees of African Methodist Episcopal Churches, concerning,	433
" of the Brimfield Free Grammar School, to change the name to the Hitchcock Free Grammar School,	231
" of the Funds of Trinity Church, in Bridgewater, to incorporate,	128
" of the Punched Free School, in Andover, in addition to Act incorporating,	39
" for the State Lunatic Hospitals, establishing Boards of, and in addition to Acts concerning Lunatic Hospitals,	160
" of the State Lunatic Hospitals, relating to the appointment of,	16
" under Railroad Mortgages, relating to,	520
" of the Wesleyan Church, in Duxbury, to incorporate,	480
" of the Worcester District Methodist Episcopal Church Camp-Meeting Association, incorporated,	61
Trust Funds, certain, Resolve on Petition of William Greenleaf, to pay over,	275
Tucker, Abner R. and others, to plant Oysters in Apponigansett River, Turnpike, Braintree and Weymouth, and the Neponset Bridge, concerning,	478
" Corporation, Brush Hill, concerning,	556
" Corporation, Norfolk and Bristol, concerning,	486
" Corporation, Norfolk and Bristol, concerning,	53

U.

Unfunded Debt of the Commonwealth, provision made for,	151
Union Bank, in Haverhill, to increase the Capital Stock of,	504
" of the Charles River Railroad and the New York and Boston Railroad Companies, confirming, and extending the time for locating and constructing,	153
" Young Men's, of Salem, to incorporate,	403, 445
United States Chemical Manufacturing Company, authorized to change their name and location,	38
" " Hotel Company, at Lawrence, to incorporate,	433
" " Jurisdiction over certain Lands on Billingsgate Island, ceded to,	472
" " Jurisdiction over certain Lands and Shoals in the City and Harbor of New Bedford, ceded to,	51
" " Jurisdiction over certain Lands and Shoals in the City and Harbor of New Bedford, ceded to, additional Act,	473
" " Telegraph Company, to incorporate,	459
Universalist Sabbath School Union, to incorporate,	6
Uxbridge and Northbridge, changing the line between the Towns of,	80

V.

Vacancies in School Committees, concerning,	51, 614
Venue of Certain Actions, relating to,	36
Vermont and Massachusetts Railroad Company, concerning,	30

Vermont and Massachusetts Railroad Company, addition to Act concerning,	Page 148
Vessels, certain classes of, exempted from Compulsory Pilotage,	555
Voters, Legal, and Inhabitants of the Commonwealth, Act for taking the Census of,	439
Votes, Returns of, in relation to,	189, 640

W.

Walker, Galen C., and Solon H. Tenney, late Deputy-Warden, and Warden of the State Prison, Resolve in favor of the Families of,	660
Waltham and Watertown Railroad Company, concerning,	488
Wamsutta Bank, in Fall River, to incorporate,	191
Ward, B. C., W. C. Barstow, E. S. Rand and C. C. Gilbert, to extend their Wharf,	22, 45
Warden and Deputy-Warden of the State Prison, (late,) Resolve in favor of the Families of,	660
Ware River Railroad, to extend the time for building,	477
Wareham and Sandwich, for the preservation of Fish in Buzzard's Bay, within the Towns of,	102
Warren Bank, to increase the Capital Stock of,	518
“ Bridge, to discontinue a Crossing, at grade, upon, and for other purposes,	475
“ “ relating to,	462
“ and Charles River Bridges, Agent authorized to lease a Wharf adjoining Warren Bridge,	243
“ “ “ “ concerning,	205
Washington, Birthday of, Resolves relative to the observance,	258, 658
Waste, to prevent,	201
Water Company, Lenox, to incorporate,	540
“ Fitchburg Gas Company to supply the inhabitants of Fitchburg with,	113
“ pure, in addition to Act to supply the City of Worcester with,	109
“ Works, Cambridge, concerning,	221
“ “ Charlestown, concerning,	633
Watts, Francis O., and John B. Alley, Executors of the Will of Sarah B. Foster, Resolve on Petition of,	680
Ways across Muddy River, Commissioners of Norfolk County, and others, to lay out,	463
“ across Railroads, relating to Powers of County Commissioners in laying out,	633
“ Public, relating to Land taken for,	481
“ or Streets, pasturing of Cattle in, relating to,	453
Webster Institute, in the City of Cambridge, to incorporate,	36
Wellfleet, Selectmen of, to build a Bridge,	114
Wenham, Ipswich River Fisheries in the Town of, to protect,	28
Wesleyan Church in Duxbury, Trustees of, to incorporate,	480
West Boston and Canal Bridges, Hancock Free Bridge Corporation authorized to surrender, to the City of Cambridge,	606

West Cambridge, First Congregational Parish in, to enclose their Land,	Page 107
“ “ Horse Railroad Company, to incorporate,	593
“ Newbury, Second Parish in, concerning the Parsonage Lands of,	620
“ “ Second Parish in, to dispose of their Burial Grounds, .	43
“ Roxbury, Burying Ground in, relative to,	66
“ “ Railroad Company, to incorporate,	116
“ “ “ “ in addition to Act incorporating,	564
Westborough, State Farm at, Resolves in favor of,	279, 665
“ State Reform School for Boys at, Resolve in favor of,	677
Western Avenue Railroad, to extend the time for constructing,	16
“ Massachusetts, Hospital for Insane, in addition to Act establishing,	628
“ “ Hospital for Insane, to amend Act establishing,	628
Westfield Academy, an Agricultural Department in, to aid in the establishment of,	83
“ “ to amend the Charter of,	472
“ State Normal School-house at, concerning,	280
Wewantitt River, Bridge over, County Commissioners of Plymouth, to lay out a Highway and construct,	90
Wharf, Abraham Read and others, to build, in Fall River,	432
“ adjoining Warren Bridge, Agent of Charles River and Warren Bridges to lease,	243
“ Augustus C. Carey, to build,	63
“ belonging to the Heirs of George Parkhurst, deceased, David Low, to extend,	112
“ Benjamin H. Breit and Barnabas S. Young, to build,	112
“ Charles and Nathaniel Friend, to extend, in Gloucester,	472
“ Company, Lincoln, to incorporate,	452
“ “ North American Depot, to incorporate,	511
“ “ Phillips, in Salem, to incorporate,	149
“ Daniel B. Tarr and others, to build,	431
“ Daniel Crowley, to extend,	28
“ Donald McKay, to build,	236
“ Francis Butters and others, to build,	467
“ Francis Small, to extend,	37
“ George Dunham and another, to build,	432
“ Heirs of the late John Curtis, to extend, in Boston,	640
“ Henry F. Pitman, to extend,	473
“ Hiram Brooks, to extend,	481
“ India, Proprietors of, in addition to Act incorporating,	464
“ James G. Tarr and others, to extend,	425
“ Job T. Wilson, to build, in Fall River,	92
“ John Gary, to extend,	57
“ John N. Swazey, to extend, in Lynn,	39
“ John Perkins and others, to build,	435
“ John Pew, to extend, in Gloucester,	30
“ Joseph and Samuel K. Friend, and Frederick Norwood, to extend,	120

INDEX.

lxvii

Wharf, Luther Drew, to build,	Page 241
“ Samuel J. Goodwin, to build, in Swampscott,	443
“ Shaw Norris, to build,	38
“ Tisdale Drake, to extend, in Boston,	635
“ W. C. Barstow, B. C. Ward, E. S. Rand, and C. C. Gilbert, to extend,	22
“ “ B. C. Ward, E. S. Rand, and C. C. Gilbert, to extend, additional Act,	45
“ William G. Johnson, to build, in Rowley,	419
“ Zeno Crowell, to build,	44
Wharves, Albert Bowker, Joshua Bates, to build and extend,	46
Wheeler, Augustus and Lucy, Resolve on Petition of,	283
Wife, Husband and, concerning,	50
Wilkins, John H., H. B. Rogers and Francis B. Fay, Resolve in favor of,	673
Williams House Company, to incorporate,	27
Williston Seminary, in addition to Act incorporating,	162
Wilmington, Resolve in favor of the Town of,	263
Wilson, Job T., to build a Wharf in Fall River,	92
Winchester, First Congregational Society of, name changed from South Congregational Society, of Woburn,	7
Winnisimmet Railroad Company, to incorporate,	559
Witnesses, parties in Civil Actions enabled to be,	108
“ parties in Civil Actions and Proceedings, enabled to be,	655
Woburn Bank, to increase the Capital Stock of,	501
“ First Baptist Church, to incorporate,	446
“ South Congregational Society, name changed and authorized to hold Property,	7
Women, Aged, to incorporate the Society for the relief of, in Salem,	241
“ Married, who are insane, authorizing release of Dower in behalf of,	94
“ “ to protect the Property of, additional Act,	598
“ New England School of Design for, Resolve in aid of,	291
“ New England School of Design for, additional Resolve in aid of,	293
Woods, Charlotte A., Guardian, Resolve on Petition of,	282
Woodworth's Planing Machine, Resolves relating to,	274
Woolen Manufacturing Company, Belvidere, in addition to Act incor- porating,	402
Worcester, City of, in addition to Act to supply with pure Water,	109
“ City of, to amend an Act in addition to Act establishing,	197
“ City of, in further addition to Act establishing,	460
“ County Commissioners, to borrow Money,	444
“ “ Criminal Courts in, concerning,	477
“ “ Mechanics' Association, in addition to Act incorpo- rating,	111
“ Court of Common Pleas in the County of, to establish addi- tional Terms,	236
“ District Methodist Episcopal Church Camp-Meeting Associa- tion, Trustees of, incorporated,	61

Worcester District Methodist Episcopal Church Camp-Meeting Association, to change the name to Sterling Camp-Meeting Association,	Page 479
“ Peat Company, to incorporate,	128
“ Police Court of, concerning,	98, 404
“ Probate Courts in the County of, in relation to,	91
“ Rural Cemetery, in addition to Act incorporating the Proprietors of,	32
“ South Agricultural Society, Resolve in favor of,	258
“ Young Men’s Library Association, in addition to Act incorporating,	26
Worthless Bank Bills, in relation to,	568
Wrecking Company, Boston Submarine, to change the name to Boston Relief and Submarine Company, and increase the Capital Stock,	422
Wrentham Bank, to increase the Capital Stock of,	529
Wright, Ansel, and George F., of Northampton, Deputy-Sheriffs, Resolve in favor of,	290
Writs, relating to the Return of, in Civil Actions before Justices of the Peace and Police Courts,	48

Y.

Young, Barnabas S., and Benjamin H. Breitt, to build a Wharf,	112
“ Isaiah B., Resolve in favor of,	684
“ Men’s Christian Association, Fall River, to incorporate,	473
“ “ Library Association, of Worcester, in addition to Act incorporating,	26
“ “ Union, of Salem, to incorporate,	403, 445







